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Commissioners' Journal

CJ2019-151

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2019-151

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code Title 23, the Deschutes County Comprehensive Plan, to Adjust the Bend Urban Growth Boundary and Comprehensive Plan Designations for Certain Properties, and Title 19, the Bend Urban Growth Area, to Adjust Zoning for Certain Properties and Declaring an Emergency.

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ORDINANCE NO. 2019-011

WHEREAS, NWX2, LLC, Tree Farm, LLC, and Rio Lobo Investments, LLC, applied for amendments to the Deschutes County Comprehensive Plan and the Deschutes County Zoning Map, to adjust the Bend Urban Growth Boundary ("UGB") to accommodate the refinement of the Skyline Ranch Road alignment and the West Area Master Plan Area 1 boundary, to amend the Comprehensive Plan designation of "Urban Area Reserve" for those lands leaving the UGB and a corresponding zone change to Urban Area Reserve 10 and Westside Transect; and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held on February 12, 2019, before a Deschutes County and City of Bend Hearings Officer and, on March 7, 2019, the Hearings Officer recommended approval of the Comprehensive Plan amendments and zone change; and

WHEREAS, the City Council of Bend approved the first reading of its ordinance consistent with the Hearings Officer's recommendation on April 3, 2019, and, subsequently approved a second reading on April 17, 2019; and

WHEREAS, after notice was given in accordance with applicable law, a de novo public hearing was held on May 1, 2019, before the Board of County Commissioners ("Board"); now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC Section 23.01.010, Introduction, is amended to read as described in Exhibit "A" attached and incorporated by reference herein, with new language underlined.

Section 2. AMENDMENT. DCC Title 23, Deschutes County Comprehensive Plan Map, is amended to reflect the legal description of the new UGB described in Exhibit "B" and to designate areas of land leaving the Bend UGB as Urban Area Reserve as described and depicted on a map set forth as Exhibit "C", with both exhibits attached and incorporated by reference herein.

Section 3. AMENDMENT. DCC Title 19, Zoning Map, is amended to change the zone designation for certain property depicted on the zoning map set forth in Exhibit "D" attached and incorporated by reference

herein, from Urbanizable Area (UA) to Urban Area Reserve – 10 Acre Min. (UAR-10) and Westside Transect Zone (WTZ).

Section 4. AMENDMENT. Deschutes County Comprehensive Plan Chapter 4, Urban Growth Management, is amended to read as described in Exhibit "E" attached and incorporated by reference herein, with new language underlined.

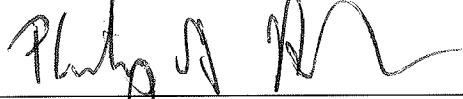
Section 5. AMENDMENT. Deschutes County Comprehensive Plan Section 5.12, Legislative History, is amended to read as described in Exhibit "F" attached and incorporated by reference herein, with new language underlined.

Section 6. FINDINGS. The Board adopts as its findings in support of this Ordinance, the Decision of the Hearings Officer as set forth in Exhibit "G," and incorporated by reference herein.

Section 7. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and, in coordination with the City of Bend's ordinance effective date, this Ordinance takes effect 16 days from adoption.

Dated this 1 of May, 2019

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

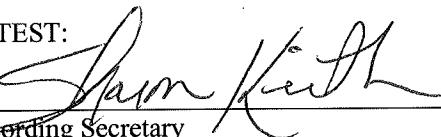
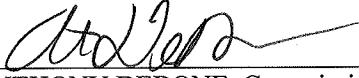


PHILIP G. HENDERSON, Chair



PATTI ADAIR, Vice-Chair

ATTEST:


Recording Secretary
ANTHONY DEBONE, Commissioner

Date of 1st Reading: 1 day of May, 2019.

Date of 2nd Reading: 1 day of May, 2019.

Record of Adoption Vote:

Commissioner	Yes	No	Abstained	Excused
Philip G. Henderson	X	—	—	—
Patti Adair	X	—	—	—
Anthony DeBone	X	—	—	—

Effective date: 17th day of May, 2019.

EXHIBIT A

Chapter 23.01 COMPREHENSIVE PLAN

Chapter 23.01 COMPREHENSIVE PLAN

23.01.010. Introduction.

- A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
- B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
- C. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-005, are incorporated by reference herein.
- D. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
- F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
- G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
- H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
- I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
- J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
- K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
- L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
- M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.
- N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.
- O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-021, are incorporated by reference herein.
- P. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-029, are incorporated by reference herein.
- Q. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-018, are incorporated by reference herein.
- R. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-010, are incorporated by reference herein.
- S. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-001, are incorporated by reference herein.
- T. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-022, are incorporated by reference herein.
- U. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-005, are incorporated by reference herein.

EXHIBIT A

- V. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-027, are incorporated by reference herein.
- W. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2016-029, are incorporated by reference herein.
- X. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2017-007, are incorporated by reference herein.
- Y. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-002, are incorporated by reference herein.
- Z. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-006, are incorporated by reference herein.
- AA. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-011, are incorporated by reference herein.
- BB. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-005, are incorporated by reference herein.
- CC. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2018-008, are incorporated by reference herein.
- DD. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-002, are incorporated by reference herein.
- EE. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-001, are incorporated by reference herein.
- FF. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-003, are incorporated by reference herein.
- GG. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-004, are incorporated by reference herein.
- HH. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2019-011, are incorporated by reference herein.

(Ord. 2019-011 § 1, 2019; Ord. 2019-004 § 1, 2019; Ord. 2019-003 § 1, 2019; Ord. 2019-001 § 1, 2019; Ord. 2019-002 § 1, 2019; Ord. 2018-008 § 1, 2018; Ord. 2018-005 § 2, 2018; Ord. 2018-011 § 1, 2018; Ord. 2018-006 § 1, 2018; Ord. 2018-002 § 1, 2018; Ord. 2017-007 § 1, 2017; Ord. 2016-029 § 1, 2016; Ord. 2016-027 § 1, 2016; Ord. 2016-005 § 1, 2016; Ord. 2016-022 § 1, 2016; Ord. 2016-001 § 1, 2016; Ord. 2015-010 § 1, 2015; Ord. 2015-018 § 1, 2015; Ord. 2015-029 § 1, 2015; Ord. 2015-021 § 1, 2015; Ord. 2014-027 § 1, 2014; Ord. 2014-021 § 1, 2014; Ord. 2014-12 § 1, 2014; Ord. 2014-006 § 2, 2014; Ord. 2014-005 § 2, 2014; Ord. 2013-012 § 2, 2013; Ord. 2013-009 § 2, 2013; Ord. 2013-007 § 1, 2013; Ord. 2013-002 § 1, 2013; Ord. 2013-001 § 1, 2013; Ord. 2012-016 § 1, 2012; Ord. 2012-013 § 1, 2012; Ord. 2012-005 § 1, 2012; Ord. 2011-027 § 1 through 12, 2011; Ord. 2011-017 repealed; Ord. 2011-003 § 3, 2011)

Click here to be directed to the Comprehensive Plan (<http://www.deschutes.org/compplan>)



EXHIBIT B
UGB Amendment
Legal Description

An alignment of land located in the Southwest one-quarter (SW1/4), the Southeast one-quarter of the Northwest one-quarter (SE1/4 NW1/4), and the Northeast one-quarter (NE1/4) of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Beginning at a point on the North right-of-way line of Skyliners Road, said point bears N 86° 22' 37" W, 1176.62 feet from the South one-quarter corner of said Section 35; thence leaving said northerly right of way line of Skyliners Road, N 18° 58' 33" W a distance of 21.17 feet to a point of curvature; thence along the arc of a 211.53 foot radius curve to the right, through a central angle of 05° 29' 17", an arc distance of 20.26 feet (the chord of which bears N 16° 13' 55" W, 20.25 feet) to a point of non-tangent compound curvature; thence along the arc of a 619.98 foot radius curve to the right, through a central angle of 14° 34' 27", an arc distance of 157.70 feet (the chord of which bears N 05° 46' 42" W, 157.28 feet) to a point of non-tangency; thence S 89° 21' 50" E a distance of 4.29 feet to a point of non-tangent curvature; thence along the arc of a 482.17 foot radius curve to the right, through a central angle of 28° 03' 57", an arc distance of 236.19 feet (the chord of which bears N 18° 44' 34" E, 233.84 feet) to a point of non-tangent reverse curvature; thence along the arc of a 524.82 foot radius curve to the left, through a central angle of 26° 54' 28", an arc distance of 246.47 feet (the chord of which bears N 16° 54' 10" E, 244.21 feet) to a point of non-tangency; thence S 78° 33' 23" W, a distance of 204.00 feet to a point on the easterly boundary of the plat of Tree Farm, recorded in Plat Cabinet I, Pages 260 through 278, and as Instrument Number 2016-44585 of the Deschutes County Official Records; thence along said easterly boundary for the following eight courses; thence S 63° 19' 11" W a distance of 175.65 feet; thence N 89° 47' 06" W a distance of 117.96 feet; thence N 85° 21' 59" W a distance of 351.80 feet; thence N 79° 44' 20" W a distance of 111.35 feet; thence N 48° 08' 56" W a distance of 158.31 feet; thence N 29° 30' 12" W a distance of 36.61 feet; thence N 14° 48' 33" W a distance of 55.05 feet to a point of non-tangent curvature; thence along the arc of a 3556.55 foot radius curve to the right, through a central angle of 23° 20' 34", an arc distance of 1448.98 feet (the chord of which bears N 16° 47' 22" E, 1438.98 feet) to a point of non-tangent curvature; thence leaving said easterly boundary, along the arc of a 400.00 foot radius curve to the right, through a central angle of 59° 31' 52", an arc distance of 415.61 feet (the chord of which bears N 77° 43' 52" E, 397.16 feet) to a point on the easterly boundary of said plat of Tree Farm and a point of non-tangent curvature; thence along said easterly boundary, along the arc of a 3256.41 foot radius curve to the right, through a central angle of 07° 03' 54", an arc distance of 401.55 feet (the chord of which bears N 36° 36' 40" E, 401.29 feet) to a point of non-tangency; thence leaving said easterly boundary, N 59° 27' 16" E a distance of 152.73 feet; thence N 49° 03' 46" E a distance of 84.77 feet to a point of non-tangent curvature; thence along the arc of a 2548.38 foot radius curve to the right, through a central angle of 17° 55' 37", an arc distance of 797.35 feet (the chord of which bears N 69° 14' 47" E, 794.10 feet) to a point on the westerly right of way of Sage Steppe Drive, as defined by said plat of Tree Farm, and a point of non-tangent curvature; thence along said westerly right of way, along the arc of a 230.00 foot radius curve to the left, through a central angle of 30° 48' 03", an

EXHIBIT B

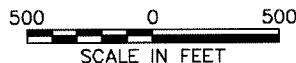
arc distance of 123.64 feet (the chord of which bears S 16° 17' 47" E, 122.16 feet) to a point on the easterly boundary of said plat of Tree Farm and a point of non-tangency; thence along said easterly boundary, N 58° 16' 15" E a distance of 60.00 feet to a point on the easterly right of way of said Sage Steppe Drive and a point of non-tangent curvature; thence leaving said easterly boundary and along said easterly right of way, along the arc of a 170.00 foot radius curve to the right, through a central angle of 13° 37' 43", an arc distance of 40.44 feet (the chord of which bears N 24° 52' 16" W, 40.34 feet) to a point of non-tangency; thence leaving said easterly right of way, N 71° 34' 07" E a distance of 242.04 feet; thence N 75° 12' 26" E a distance of 146.27 feet; thence N 77° 56' 29" E a distance of 146.19 feet; thence N 80° 40' 32" E a distance of 146.19 feet; thence N 83° 24' 36" E a distance of 146.23 feet; thence N 86° 32' 47" E a distance of 199.14 feet to a point of non-tangent curvature; thence along the arc of an 285.00 foot radius curve to the right, through a central angle of 14° 45' 53", an arc distance of 73.44 feet (the chord of which bears N 12° 41' 04" E, 73.24 feet) to a point of tangency; thence N 20° 04' 00" E, 71.45 feet to a point of curvature; thence along the arc of a 1885.00 foot radius curve to the right, through a central angle of 17° 20' 04", an arc distance of 570.29 feet (the chord of which bears N 28° 44' 02" E, 568.12 feet) to a point of reverse curvature; thence along the arc of a 1465.00 foot radius curve to the left, through a central angle of 05° 51' 09", an arc distance of 149.65 feet (the chord of which bears N 34° 28' 29" E, 149.58 feet) to a point on the north line of said plat of Tree Farm, being a point on the north line of the South one-half of the Northeast one-quarter (S 1/2 NE 1/4) of said Section 35; thence leaving said north line along the arc of a 1465.00 foot radius curve to the left, through a central angle of 04° 33' 52", an arc distance of 116.71 feet (the chord of which bears N 29° 15' 59" E, 116.67 feet) to a point of curvature; thence N 26° 59' 03" E, 456.39 feet to a point of curvature; thence along the arc of a 1965.00 foot radius curve to the left, through a central angle of 08° 41' 23", an arc distance of 298.02 feet (the chord of which bears N 22° 38' 22" E, 297.73 feet to a point of tangency; thence N 18° 17' 40" E, 203.99 feet to a point of curvature; thence along the arc of a 585.00 foot radius curve to the right, through a central angle of 12° 28' 33", an arc distance of 127.38 feet (the chord of which bears N 24° 31' 57" E, 127.13 feet) to a point of tangency; thence N 30° 46' 13" E, 120.44 feet to a point of curvature; thence along the arc of a 515.00 foot radius curve to the left, through a central angle of 14° 22' 54", an arc distance of 129.27 feet (the chord of which bears N 23° 34' 46" E, 128.93 feet) to a point of non-tangency on the north line of said section 35; thence along said north line N 89° 54' 58" W, 73.56 feet to the terminus of this alignment, said terminus bears S 89° 54' 58 E, 229.22 feet from the Southeast corner of Lot 4 of Anderson Ranch PUD.

REGISTERED PROFESSIONAL LAND SURVEYOR
<i>Lynn J. Bruno</i>
OREGON JULY 26, 1986 LYNN J BRUNO 02335
RENEWAL DATE: 12-31-19

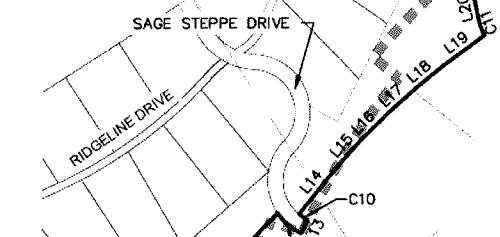
EXHIBIT B

UGB AMENDMENT

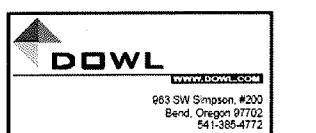
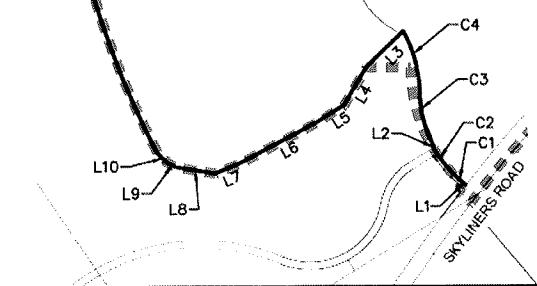
LOCATED IN THE SOUTHWEST ONE-QUARTER
(SW1/4), THE SOUTHEAST ONE-QUARTER OF THE
NORTHWEST ONE-QUARTER (SE1/4 NW1/4), AND THE
NORTHEAST ONE-QUARTER (NE1/4) OF SECTION 35,
TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE
MERIDIAN, DESCHUTES COUNTY, STATE OF OREGON

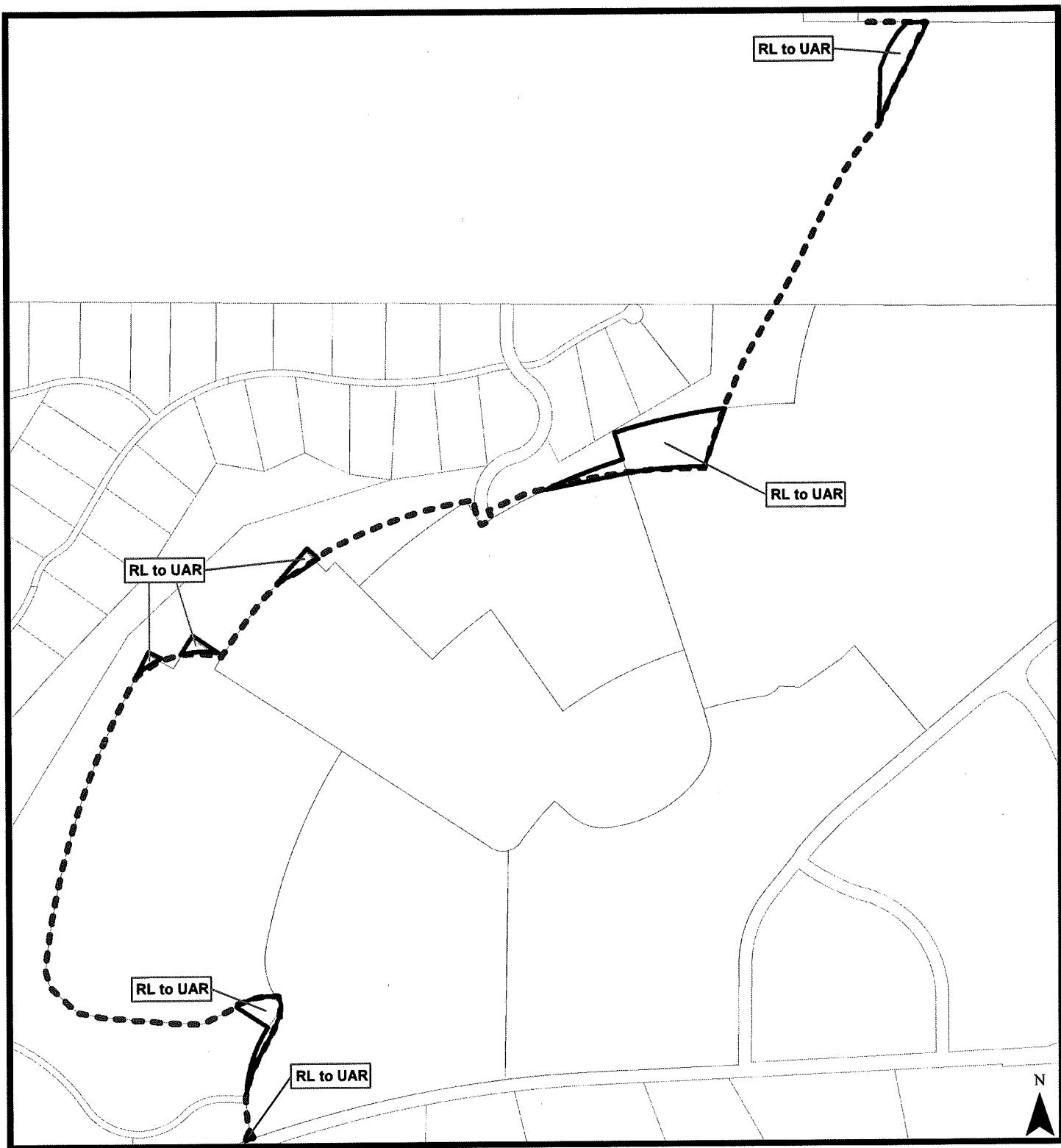


LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	21.17'	N18°58'33" W
L2	4.29'	S89°21'50" E
L3	204.00'	S78°33'23" W
L4	175.85'	S63°19'11" W
L5	117.96'	N89°47'08" W
L6	351.80'	N85°21'59" W
L7	111.35'	N79°44'20" W
L8	158.31'	N48°08'56" W
L9	36.61'	N29°30'12" W
L10	55.05'	N14°48'33" W
L11	152.73'	N59°27'16" E
L12	84.77'	N49°03'46" E
L13	60.00'	N58°16'15" E
L14	242.04'	N71°34'07" E
L15	146.27'	N75°12'26" E
L16	146.19'	N77°56'29" E
L17	146.19'	N80°40'32" E
L18	146.23'	N83°24'36" E
L19	199.14'	N86°32'47" E
L20	71.45'	N20°04'00" E
L21	458.39'	S28°59'03" W
L22	203.99'	S18°17'40" W
L23	120.44'	S46°15'3" W
L24	73.56'	N89°54'58" W
L25	229.22'	N89°54'58" W



CURVE TABLE					
CURVE #	RADIUS	DELTA	LENGTH	CHORD	CHORD LENGTH
C1	211.53'	5°29'17"	20.28'	S161°55'E	20.25'
C2	619.98'	14°34'27"	157.70'	S54°42'E	157.26'
C3	482.17'	28°03'57"	236.19'	S18°44'34"E	233.84'
C4	524.82'	26°54'28"	246.47'	N18°54'10"E	244.21'
C5	3556.55	23°20'34"	1448.98'	S16°47'22"W	1438.98'
C6	400.00'	59°31'52"	415.61'	S77°43'52"W	397.18'
C7	3256.41'	7°03'54"	401.55'	S36°36'40"W	401.29'
C8	2548.38'	17°55'37"	797.35'	S69°14'47"W	794.10'
C9	230.00'	30°48'03"	123.64'	S161°74'7"E	122.16'
C10	170.00'	13°37'43"	40.44'	S24°52'16"E	40.34'
C11	285.00'	14°45'53"	73.44'	S21°41'04"W	73.24'
C12	1885.00'	17°20'04"	570.29'	S26°44'02"W	568.12'
C13	1465.00'	5°51'10"	149.65'	N34°28'29"E	149.58'
C14	1465.00'	4°33'52"	116.71'	S29°15'58"W	116.68'
C15	1965.00'	8°41'23"	298.02'	S22°38'22"W	297.73'
C16	585.00'	12°28'33"	127.38'	S24°31'57"W	127.13'
C17	515.00'	14°22'54"	129.27'	S23°34'48"W	128.93'



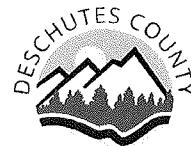


Legend

- Affected Areas
- Proposed Urban Growth Boundary
- Taxlots
- CL - Limited Commercial
- ME - Mixed Employment
- RL - Low Density Residential
- Urban Area Reserve

Proposed Comprehensive Plan Change

Exhibit C



0 310 620
April 24, 2019 Feet

Board of County Commissioners
of Deschutes County, Oregon

Phillip G. Henderson, Chair

Patti Adair, Vice - Chair

Tony DeBone, Commissioner

Attest: Recording Secretary

Dated this _____ day of _____, 2019
Effective Date: _____, 2019

EXHIBIT C

KEY MAP FOR
UGB AMENDMENT ZONE
CHANGE LEGAL DESCRIPTIONS

LOCATED IN THE SOUTHWEST ONE-QUARTER (SW $\frac{1}{4}$), THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (SE $\frac{1}{4}$ NW $\frac{1}{4}$), AND THE NORTHEAST ONE-QUARTER (NE $\frac{1}{4}$) OF SECTION 35, TOWNSHIP 17 SOUTH, RANGE 11 EAST, WILLAMETTE MERIDIAN, DESCHUTES COUNTY, STATE OF OREGON

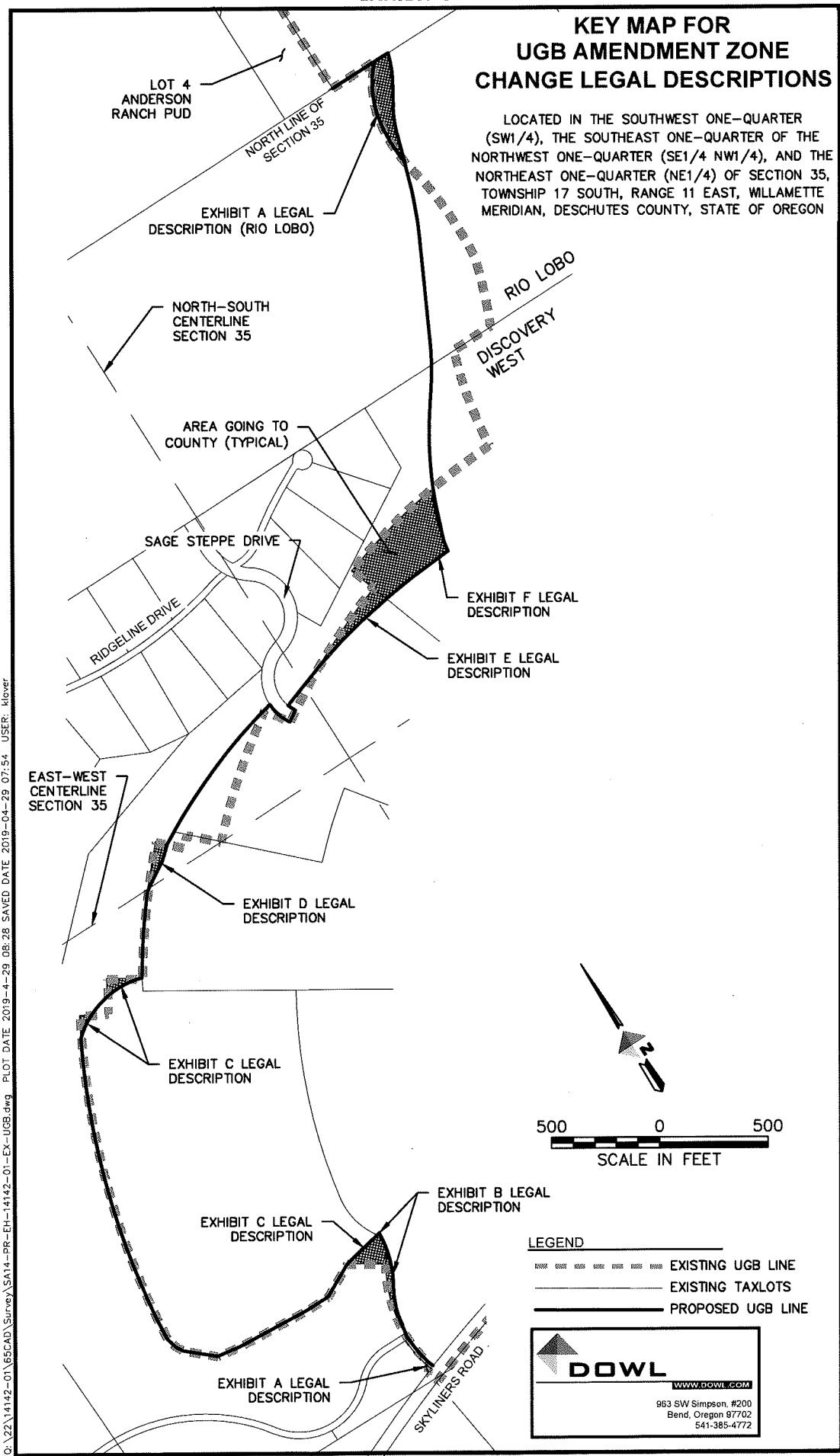


EXHIBIT C



EXHIBIT A

**UGB Amendment Rio Lobo
Legal Description**

A tract of land located in the Northeast one-quarter of the Northeast one-quarter (NE1/4 NE1/4) of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at the Southeast corner of Lot 4 of Anderson Ranch PUD on the North line of Section 35; thence S 89° 54' 58" E, along said North line, 229.22 feet to the **True Point of Beginning**, from said point the East one-quarter corner of said Section 35 bears S 17° 22' 51" E, 2755.31 feet; thence continuing S 89° 54' 58" E, along said North line, 73.56 feet to a point of non-tangent curvature; thence leaving said North line, along the arc of a 515.00 foot radius curve to the right, through a central angle of 14° 22' 54", an arc distance of 129.27 feet (the chord of which bears S 23° 34' 46" W, 128.93 feet) to a point of tangency; thence S 30° 46' 13" W, 120.44 feet to a point of curvature; thence along the arc of a 585.00 foot radius curve to the left, through a central angle of 12° 28' 33", an arc distance of 127.38 feet (the chord of which bears S 24° 31' 57" W, 127.13 feet) to a point of tangency; thence S 18° 17' 40" W, 118.22 feet to a point of non-tangent curvature; thence along the arc of a 492.72 foot radius curve to the right, through a central angle of 56° 42' 03", an arc distance of 487.60 feet (the chord of which bears N 16° 04' 10" E, 467.94 feet) to the Point of Beginning.

This tract of land contains 0.75 acres, more or less.

REGISTERED PROFESSIONAL LAND SURVEYOR
<i>Lynn J. Bruno</i>
OREGON JULY 26, 1988 LYNN J. BRUNO 02335
RENEWAL DATE: 12-31-19

EXHIBIT C



EXHIBIT A

**PLA Discovery West 17113500-00500 to 17113500-01000 Tree Farm Tract A
Legal Description**

A tract of land located in the Southeast one-quarter of the Southwest one-quarter (SE1/4 SW1/4), of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at the East one-quarter corner of said Section 35, thence S 56° 25' 44" W, 4655.11 feet to the **TRUE POINT OF BEGINNING**, said point being the Southeast corner of Tract A of the plat of Tree Farm, said point also being on the North right-of-way line of Skyliners Road; thence leaving said northerly right of way line of Skyliners Road along the easterly line of said Tract A, along the arc of a 71.00 foot radius curve to the right, through a central angle of 45° 43' 32", an arc distance of 56.66 feet (the chord of which bears N 21° 58' 00" E, 55.17 feet) to a point of non-tangent curvature; thence leaving said easterly line of Tract A along the arc of a 300.00 foot radius curve to the left, through a central angle of 06° 13' 07", an arc distance of 32.56 feet (the chord of which bears S 16° 10' 20" E, 32.54 feet) to a point of tangency; thence S 19° 16' 54" E, 8.88 feet to a point of non-tangent curvature on the North right-of-way line of said Skyliners Road; the along said North line along the arc of a 5673.80 foot radius curve to the left, through a central angle of 00° 20' 58", an arc distance of 34.61 feet (the chord of which bears S 70° 32' 37" W, 34.61 feet) to the point of beginning.

This tract of land contains 905 square feet or 0.02 acres, more or less.

REGISTERED PROFESSIONAL LAND SURVEYOR
<i>Lynn J. Bruno</i>
OREGON JULY 26, 1988 LYNN J. BRUNO 02335
RENEWAL DATE: 12-31-19

EXHIBIT C



EXHIBIT B

PLA Discovery West 17113500-00500 to 17113500-0700 Tree Farm Tract C

Legal Description

A tract of land located in the Southeast one-quarter of the Southwest one-quarter (SE1/4 SW1/4), of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at the East one-quarter corner of said Section 35, thence S 61° 31' 41" W, 4295.03 feet to the **TRUE POINT OF BEGINNING**, said point being on the East line of Tract C of the plat of Tree Farm; thence along the arc of a 619.98 foot radius curve to the right, through a central angle of 06° 29' 18", an arc distance of 70.21 feet (the chord of which bears N 35° 58' 59" E, 70.17 feet) to a point of non-tangent curvature; thence along the arc of a 524.82 foot radius curve to the right, through a central angle of 18° 09' 27", an arc distance of 166.32 feet (the chord of which bears S 21° 16' 41" W, 165.62 feet) to a point of reverse curvature; thence along the arc of a 482.17 foot radius curve to the left, through a central angle of 28° 03' 57", an arc distance of 236.19 feet (the chord of which bears S 18° 44' 34" W, 233.84 feet) to a point of non-tangency; thence N 89° 07' 25" W, 4.26 feet to the Southeast corner of said Tract C and a point of non-tangent curvature; thence along said East line of Tract C, along the arc of a 619.98 foot radius curve to the right, through a central angle of 31° 13' 33", an arc distance of 337.88 feet (the chord of which bears N 17° 07' 34" E, 333.72 feet) to the point of beginning.

This tract of land contains 7,365 square feet or 0.17 acres, more or less.

Together with a tract of land located in the Southeast one-quarter of the Southwest one-quarter (SE1/4 SW1/4), of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at the East one-quarter corner of said Section 35, thence S 62° 49' 33" W, 4185.39 feet to the **TRUE POINT OF BEGINNING**; thence along the arc of a 524.82 foot radius curve to the right, through a central angle of 02° 10' 14", an arc distance of 19.88 feet (the chord of which bears S 04° 32' 03" W, 19.88 feet) to a point of non-tangent curvature; thence along the arc of a 332.86 foot radius curve to the right, through a central angle of 03° 35' 08", an arc distance of 20.83 feet (the chord of which bears N 34° 51' 35" W, 20.83 feet) to a point of non-tangency; thence N 78° 33' 23" E, 13.75 feet to the point of beginning.

This tract of land contains 135 square feet or 0.003 acres, more or less.

EXHIBIT C

Exhibit B
Page 2 of 2

The total of both tracts and this entire parcel contains 7,500 square feet or 0.17 acres, more or less.

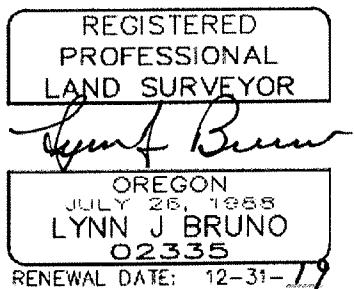


EXHIBIT C



EXHIBIT C

PLA Discovery West 17113500-00400 to 17113500-0700 Tree Farm Tract C

Legal Description

A tract of land located in the Southeast one-quarter of the Southwest one-quarter (SE1/4 SW1/4), of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at the East one-quarter corner of said Section 35, thence S 61° 31' 41" W, 4295.03 feet to the **TRUE POINT OF BEGINNING**, said point being on the East line of Tract C of the plat of Tree Farm; thence N 57° 05' 49" W, along said East line, 176.01 feet; thence leaving said east line, N 78° 32' 49" E, 190.22 feet to a point of non-tangent curvature; thence along the arc of a 332.86 foot radius curve to the left, through a central angle of 03° 35' 08", an arc distance of 20.83 feet (the chord of which bears S 34° 51' 35" E, 20.83 feet) to a point of non-tangent curvature; thence along the arc of a 524.82 foot radius curve to the right, through a central angle of 06° 34' 48", an arc distance of 60.27 feet (the chord of which bears S 08° 54' 34" W, 60.24 feet) to a point of non-tangent curvature; thence along the arc of a 619.98 foot radius curve to the left, through a central angle of 06° 29' 18", an arc distance of 70.21 feet (the chord of which bears S 35° 58' 59" W, 70.17 feet) to the point of beginning.

This tract of land contains 13,775 square feet or 0.316 acres, more or less.

Together with a tract of land located in the Southwest one-quarter of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at the East one-quarter corner of said Section 35, thence S 85° 48' 57" W, 4350.26 feet **TRUE POINT OF BEGINNING**, said point being on the easterly line of Tract C of the plat of Tree Farm; thence S 61° 38' 41" E, 58.51 feet to a Point "A" and a point non-tangent curvature; thence leaving said easterly line along the arc of a 400.00 foot radius curve to the right, through a central angle of 18° 07' 10", an arc distance of 126.50 feet (the chord of which bears S 57° 01' 32" W, 125.97 feet) to a point of non-tangent curvature on the Easterly line of said tract; thence along said easterly line along the arc of a 3556.55 foot radius curve to the right, through a central angle of 01° 46' 51", an arc distance of 110.55 feet (the chord of which bears N 29° 21' 17" E, 110.54 feet) to the point of beginning.

This tract of land contains 2,845 square feet or 0.065 acres, more or less.

Together with a tract of land located in the Southwest one-quarter of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at Point "A" as described above; thence along the easterly line of said Tract C along the arc of a 400.00 foot radius curve to the right, through a central angle of 15° 13' 43", an arc distance of 106.32 feet (the chord of which bears N 73° 41' 59" E, 106.00 feet) to the **TRUE**

EXHIBIT C

Exhibit C
Page 2 of 2

POINT OF BEGINNING: thence N 30° 58' 12" E, along said easterly line, 85.47 feet to a point; thence continuing along said line, S 57° 27' 47" E, 162.13 feet to a point of non-tangent curvature; thence leaving said easterly line along the arc of a 400.00 foot radius curve to the left, through a central angle of 26° 10' 57", an arc distance of 182.79 feet (the chord of which bears N 85° 35' 41" W, 181.20 feet) to the point of beginning.

This tract of land contains 5,667 square feet or 0.130 acres, more or less.

The total of all three tracts and this entire parcel contains 22,287 square feet or 0.511 acres, more or less.

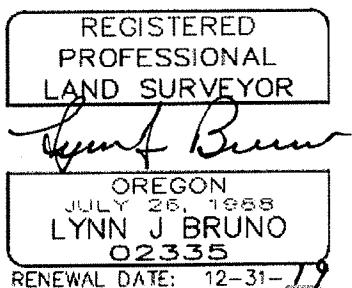


EXHIBIT C



EXHIBIT D

PLA Discovery West 17113500-00300 to 17113500-0700 Tree Farm Tract C

Legal Description

A tract of land located in the Southeast one-quarter of the Northwest one-quarter (SE1/4 NW1/4) of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at the East one-quarter corner of said Section 35, thence N 87° 22' 54" W, 3613.12 feet to the **TRUE POINT OF BEGINNING**, said point being on the East line of Tract C of the plat of Tree Farm; thence S 45° 14' 31" E, along said East line, 55.46 feet to a point; thence leaving said east line, S 48° 58' 19" W, 84.75 feet to a point; thence S 59° 27' 16" W, 152.85 feet to a point of non-tangent curvature on said easterly line of Tract C; thence along said easterly line along the arc of a 3,256.41 foot radius curve to the right, through a central angle of 04° 05' 37", an arc distance of 232.66 feet (the chord of which bears N 42° 10' 57" E, 232.61 feet) the point of beginning.

This tract of land contains 7,944 square feet or 0.182 acres, more or less.

REGISTERED PROFESSIONAL LAND SURVEYOR
<i>Lynn J. Bruno</i>
OREGON JULY 26, 1958 LYNN J. BRUNO 02335
RENEWAL DATE: 12-31-19

EXHIBIT C



EXHIBIT E

PLA Discovery West 17113500-00200 to 171135AC-0100 Tree Farm Tract D

Legal Description

A tract of land located in the Southwest one-quarter of the Northeast one-quarter (SW1/4 NE1/4) of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at the East one-quarter corner of said Section 35, thence N 74° 25' 41" W, 2218.89 feet to the **TRUE POINT OF BEGINNING**, said point being on the southerly line of Tract D of the plat of Tree Farm; thence leaving said southerly line, S 18° 22' 13" E, 75.32 feet to a point; thence S 80° 40' 32" W, 132.98 feet to a point; thence S 77° 56' 29" W, 146.19 feet to a point; thence S 75° 12' 26" W, 146.27 feet to a point; thence S 71° 34' 07" W, 20.06 feet to a point of non-tangent curvature on said southerly line of Tract D; thence along said southerly line along the arc of a 2,833.88 foot radius curve to the right, through a central angle of 08° 58' 44", an arc distance of 444.10 feet (the chord of which bears N 67° 51' 03" E, 443.64 feet) the point of beginning.

This tract of land contains 16,877 square feet or 0.387 acres, more or less.

REGISTERED PROFESSIONAL LAND SURVEYOR
<i>Lynn Bruno</i>
OREGON JULY 26, 1988
LYNN J BRUNO 02335
RENEWAL DATE: 12-31- / /

EXHIBIT C



EXHIBIT F

PLA Discovery West 17113500-00100 to 171135AC-0100 Tree Farm Tract D

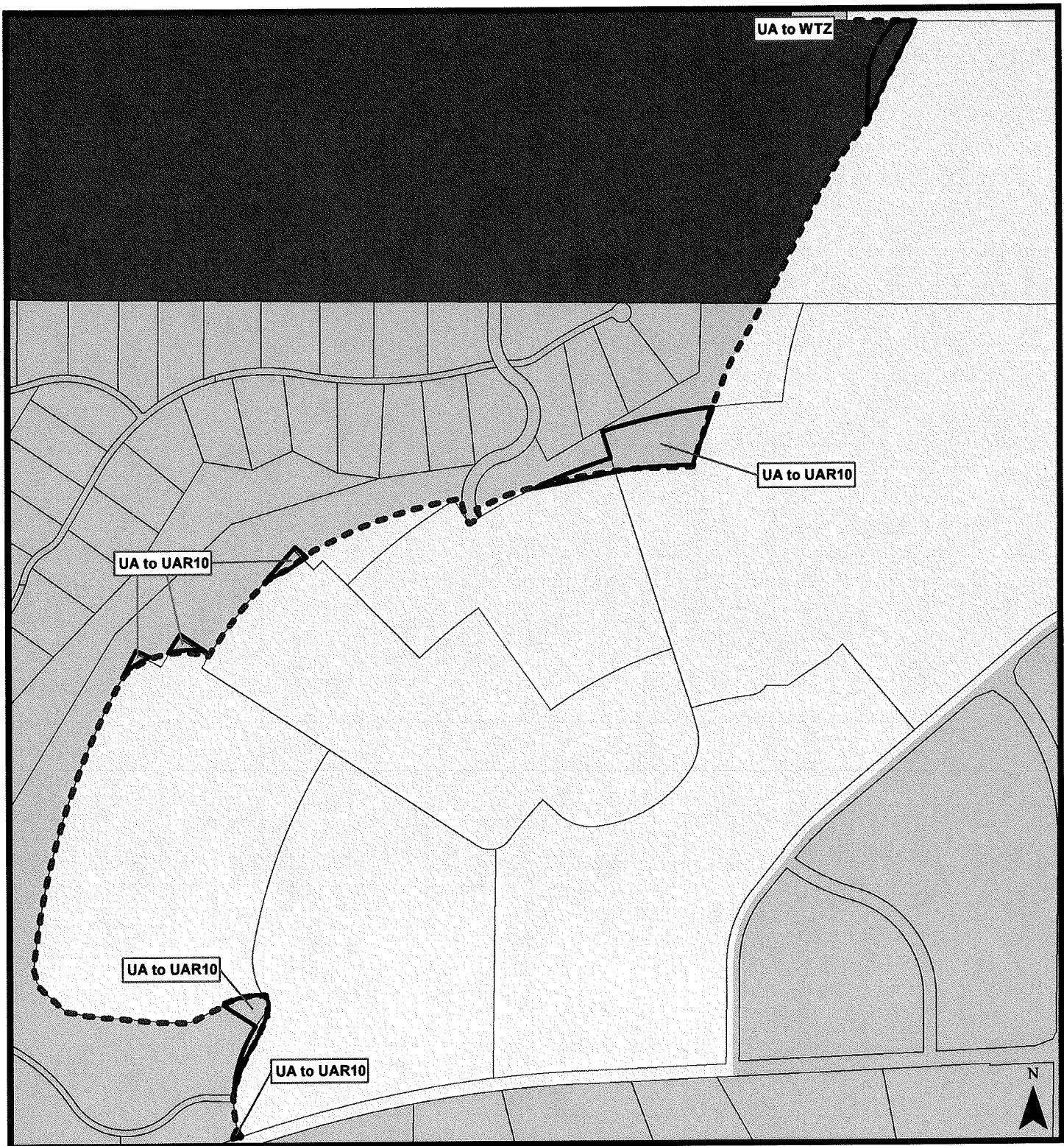
Legal Description

A tract of land located in the Southwest one-quarter of the Northeast one-quarter (SW1/4 NE1/4) of Section 35, Township 17 South, Range 11 East of the Willamette Meridian, Deschutes County, State of Oregon, being more particularly described as follows:

Commencing at the East one-quarter corner of said Section 35, thence N 74° 25' 41" W, 2218.89 feet to the **TRUE POINT OF BEGINNING**, said point being on the southerly line of Tract D of the plat of Tree Farm; thence continuing along said southerly line the next two courses, N 18° 22' 13" W, 130.21 feet to a point of non-tangent curvature; thence along the arc of a 2,966.41 foot radius curve to the right, through a central angle of 10° 01' 26", an arc distance of 518.97 feet (the chord of which bears N 77° 18' 16" E, 518.31 feet) to a point of non-tangent curvature; thence leaving said southerly line along the arc of a 1,483.61 foot radius curve to the left, through a central angle of 11° 20' 36", an arc distance of 293.73 feet (the chord of which bears S 18° 13' 37" W, 293.25 feet) to a point of non-tangency; thence S 86° 32' 47" W, 191.19 feet to a point; thence S 83° 24' 36" W, 146.23 feet to a point; thence S 80° 40' 32" W, 13.21 feet to a point; thence N 18° 22' 13" W, 75.32 feet the point of beginning.

This tract of land contains 101,791 square feet or 2.337 acres, more or less.

REGISTERED PROFESSIONAL LAND SURVEYOR
<i>Lynn J. Bruno</i>
OREGON JULY 26, 1988 LYNN J. BRUNO 02335
RENEWAL DATE: 12-31-19



Legend

- Affected Areas
- Taxlots
- Westside Transect Zone
- URBAN AREA RESERVE 10 ACRE MINIMUM
- BEND URBANIZABLE AREA

BEND RESIDENTIAL STANDARD DENSITY

Proposed Urban Growth Boundary

**Proposed Zone Change
Exhibit D**



0 310 620
April 24, 2019 Feet

Board of County Commissioners
of Deschutes County, Oregon

Phillip G. Henderson, Chair

Patti Adair, Vice - Chair

Tony DeBone, Commissioner

Attest: Recording Secretary

Dated this _____ day of _____, 2019
Effective Date: _____, 2019

EXHIBIT E

Section 4.2 Urbanization

Background

This section describes the coordination between the County and the cities of Bend, La Pine, Redmond and Sisters on Urban Growth Boundaries (UGBs) and Urban Reserve Areas (URAs). Statewide Planning Goal 2 recognizes the importance of coordinating land use plans.

“City, county, state and federal agency and special district plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268.”

Oregon Revised Statute 197.015(5) goes further to define comprehensive plan coordination.

“A plan is “coordinated” when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible.”

Population

An important basis for coordinating with cities is adopted population projections. Having an estimate of anticipated population is the first step to planning for future growth and conservation. ORS 195.025(1) requires counties to coordinate local plans and population forecasts. The County oversees the preparation of a population forecast in close collaboration with cities. This is important because the population of the County has increased significantly in recent decades and a coordinated approach allows cities to ensure managed growth over time.

Table 4.2.1 – Population Growth in Deschutes County 1980 to 2010

Sources	1980	1990	2000	2010
Population Research Center July 1 estimates	62,500	75,600	116,600	172,050
US Census Bureau April 1 counts	62,142	74,958	115,367	157,733

Source: As noted above

In 1996 Bend, Redmond, Sisters and the County reviewed recent population forecasts from the Portland State University Center Population and Research Center (PRC) and U.S. Census Bureau, Department of Transportation, Woods and Poole, Bonneville Power Administration and Department of Administrative Services Office of Economic Analysis. After reviewing these projections, all local governments adopted a coordinated population forecast. It was adopted by Deschutes County in 1998 by Ordinance 98-084.

The results of the 2000 decennial census and subsequent population estimates prepared by the PRC revealed that the respective populations of the County and its incorporated cities were growing faster than anticipated under the 1998 coordinated forecast. The cities and the County re-engaged in a coordination process between 2002 and 2004 that culminated with the County adopting a revised population forecast that projected population to the year 2025. It was adopted by Ordinance 2004-012 and upheld by the Land Use Board of Appeals on March 28, 2005.

The following table displays the 2004 coordinated population forecast for Deschutes County and the UGBs of the cities of Bend, Redmond, and Sisters.

EXHIBIT E

Table 4.2.2 – Coordinated Population Forecast 2000 to 2025

Year	Bend UGB	Redmond UGB	Sisters UGB	Unincorporated County	Total County
2000	52,800	15,505	975	47,320	116,600
2005	69,004	19,249	1,768	53,032	143,053
2010	81,242	23,897	2,306	59,127	166,572
2015	91,158	29,667	2,694	65,924	189,443
2020	100,646	36,831	3,166	73,502	214,145
2025	109,389	45,724	3,747	81,951	240,811

Source: 2004 Coordinated Population Forecast for Deschutes County

The process through which the County and the cities coordinated to develop the 2000-2025 coordinated forecast is outlined in the report titled "Deschutes County Coordinated Population Forecast 2000-2025: Findings in Support of Forecast."

The fourth city in Deschutes County is the City of La Pine. Incorporated on November 7, 2006, the City of La Pine's 2006 population estimate of 1,590 was certified by PRC on December 15, 2007. As a result of La Pine's incorporation, Deschutes County updated its Coordinated Population Forecast with Ordinance 2009-006.

The purpose of this modification was to adopt a conservative 20 year population forecast for the City of La Pine that could be used by city officials and the Oregon Department of Land Conservation and Development to estimate its future land need and a UGB.

The following table displays the coordinated population forecast for Deschutes County, the UGBs of the cities of Bend, Redmond, and Sisters, and La Pine from 2000 to 2025. By extending the growth rate to the year 2025, La Pine's population will be 2,352. The non-urban unincorporated population decreases by 2,352 from its original projection of 81,951, to 79,599.

Table 4.2.3 – Coordinated Population Forecast 2000 to 2025, Including La Pine

Year	Bend UGB	Redmond UGB	Sisters UGB	La Pine UGB	Unincorporated County	Total County
2000	52,800	15,505	975	-	47,320	116,600
2005	69,004	19,249	1,768	-	53,032	143,053
2010	81,242	23,897	2,306	1,697	57,430	166,572
2015	91,158	29,667	2,694	1,892	64,032	189,443
2020	100,646	36,831	3,166	2,110	71,392	214,145
2025	109,389	45,724	3,747	2,352	79,599	240,811

Source: 2004 Coordinated Population Forecast for Deschutes County – updated 2009

2030 Population Estimate

This Comprehensive Plan is intended to manage growth and conservation in the unincorporated areas of the County until 2030. Because the official population forecast extends only to 2025, County staff used conservative average annual growth rates from the adopted population forecast to estimate population out to 2030. The following table estimates Deschutes County population by extending the adopted numbers out an additional five years.

EXHIBIT E

Table 4.2.4 – Deschutes County 2030 Population Forecast

Year	Bend UGB	Redmond UGB	Sisters UGB	La Pine UGB	Unincorporated County	Total County
2030	119,009	51,733	4,426	2,632	88,748	266,538

Source: County estimates based on the 2004 Coordinated Population Forecast as shown below

Bend's average annual growth rate from 2025 to 2030 is 1.70%

Redmond's average annual growth rate from 2025 to 2030 is 2.50%

Sisters' based their population on forecasted rates of building growth, residential housing units, and persons per dwelling unit

La Pine's average annual growth rate from 2025 to 2030 is 2.20%

Deschutes County's unincorporated area average annual growth rate from 2025 to 2030 is 2.20%

As the pie chart below indicates, if population occurs as forecasted, 67% of the County's population will reside in urban areas by 2030.

In 2030

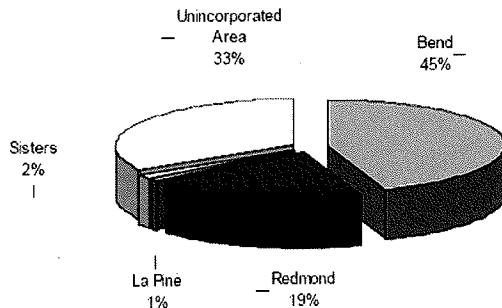


Figure 4.1 Deschutes County 2030 Estimated Population

Such growth will undoubtedly require strategically managing the provision of public services and maintaining adequate amounts of residential, commercial and industrial lands. Growth pressures will also require programmatic approaches to maintain open spaces, natural resources, and functional ecosystems that help define the qualities of Deschutes County.

Urban Growth Boundary Amendments

Bend

The City of Bend legislatively amended its UGB as part of a periodic review acknowledgment in December 2004. The Bend City Council and the Board of County Commissioners adopted concurrent ordinances that expanded the Bend UGB by 500 acres and satisfied a 20 year demand for industrial land.

In July 2007, the Bend-La Pine School District received approvals to expand the City of Bend UGB to include two properties for the location of two elementary schools, one at the Pine Nursery, the other on Skyliner Road. In 2014, the Bend-La Pine School district received approval to include a 33-acre site within the UGB near Skyliners Road to facilitate the construction of a public middle school.

The Bend City Council and the Board of County Commissioners approved a legislative amendment to the Bend UGB in September 2016. The adopted amendment added 2,380 acres of land intended to satisfy a 20-year land need for needed housing, employment, and public uses from 2008 to 2028. The adopted UGB amendment also satisfied the terms of a 2010 Remand Order from the Oregon Land Conservation and Development Commission (10-REMAND-PARTIAL ACKNOW-001795).

EXHIBIT E

The City of Bend UGB amendment identified 5 existing neighborhood typologies within the City, with the “Transect” being the defined neighborhood typology which “provides a transitional residential development pattern from urban to rural using a variety of housing types integrated with the surrounding natural landscape to minimize the impact on sensitive ecosystems, wildlife and to reduce the risk of wildfire.” The City applied this Transect concept to specific areas added to the UGB identified as the “Shevlin Area” and the “West Area” and created area-specific policies for those areas to recognize the unique characteristics of the area and create a transition from higher densities within the city to lower densities extending westward to the City of Bend UGB . In coordination with the city, Deschutes County has continued this concept for the areas in the county on the west side of Bend adjacent to the “Shevlin” and “West Area” in its Rural Housing elements and policies found in Chapter 3 of this Comprehensive Plan.

The Bend City Council and the Board of County Commissioners approved an applicant-initiated, quasi-judicial application to adjust the Bend UGB in 2019. The adjustment removed 4.02 acres of land from the Bend UGB and added approximately 8.18 acres for a net increase of 4.16 acres. The adjustment accommodated the Skyline Ranch Road right-of-way because the previous alignment was deemed topographically infeasible.

Sisters

The City of Sisters legislatively amended its UGB in September 2005 when its City Council and the Board of County Commissioners adopted respective ordinances. The Sisters UGB expansion covered 53 acres and satisfied a 20 year demand for residential, commercial, light industrial, and public facility land. In March 2009, Sisters amended their UGB to facilitate the establishment of a 4-acre fire training facility for the Sisters/Camp Sherman Fire District.

Redmond

The City of Redmond legislatively amended its UGB in August 2006 when its City Council and the Board of County Commissioners adopted respective ordinances. The Redmond UGB expansion covered 2,299 acres and satisfied a 20 year demand for residential and neighborhood commercial land.

In February 2019, Redmond amended its UGB through a joint process when its City Council and the Board of County Commissioners adopted respective ordinances. This expansion covered 949 acres in total: 789 acres was designated for large lot industrial development in accordance with the Central Oregon Regional Large Lot Industrial Lands Program, and 160 acres allowed for the expansion of the existing Deschutes County Fairgrounds and Oregon Military Department’s National Guard Armory.

La Pine

In 2012 La Pine adopted its first Comprehensive Plan. La Pine established a UGB that matches the city limits, because the City contains sufficient undeveloped land for future housing, commercial and industrial needs over a 20-year period. The Plan map includes land use designations intended to provide an arrangement of uses to ensure adequate and efficient provision of public infrastructure for all portions of the City and UGB.

Urban Reserve Area

EXHIBIT E

Redmond

In December 2005, Redmond City Council and the Board of County Commissioners adopted a 5,661 acre URA for the City. It is the first URA in Central Oregon because most cities find planning farther into the future than the 20-year UGB timeframe, challenging.

Coordination

As noted above, Statewide Goal 2 and ORS promote land use planning coordination. The purposes of the urbanization goals and policies in this section are to provide the link between urban and rural areas, and to provide some basic parameters within which the urban areas of Deschutes County can develop, although the specific comprehensive plan for each community remains the prevailing document for guiding growth in its respective area. These policies permit the County to review each city's comprehensive plan to ensure effective coordination.

The Redmond and Deschutes County Community Development Departments received the Oregon Chapter of American Planning Association's (OAPA) Professional Achievement in Planning Award in 2006 for the "Redmond Urban Reserve Area / Urban Growth Boundary Expansion Project." The following quote taken from the Oregon Chapter of the American Planning Association's 2006 Awards Program shows why the Redmond Community Development Department was chosen for this award.

"An outstanding effort to address Redmond's rapid population growth, including the successful designation of an Urban Reserve and the imminent designation of an Urban Growth Boundary, a "Framework Plan" with a requirement for master planning, and the establishment of "Great Neighborhood Principles."

Central Oregon Large Lot Industrial Land Need Analysis

During the 1990s, the Central Oregon region experienced a dramatic transformation from an economy concentrated largely in wood products into a service based economy serving a growing and diverse tourism and household base. Accelerated in-migration and tourism growth gave way to rapid economic expansion, escalation in home prices, and a systematic shift in the local economy from goods producing activities to service oriented industries. While initially representing a diversification of the local economy, this shift led to an over-reliance upon these types of industries. During the recent recession, the regional economy's vulnerabilities became apparent. Suitable land for today's industrial development forms emerged as one of Oregon's most severe development challenges. In 2010, 2011, and 2012, Deschutes, Crook and Jefferson counties and their respective cities, undertook an unprecedented regional evaluation of the economic opportunities and constraints associated with users of large industrial parcels in the Central Oregon region. The purpose of this evaluation was to aid in providing a more diversified economic base for the region that would accommodate industrial uses with a need for larger lots than possibly may be currently available in any of the Central Oregon cities. As part of that evaluation, Deschutes County hired a consultant to draft an analysis of Central Oregon's opportunities, competitiveness, ability, and willingness to attract more basic industries. The analysis focused specifically on industries that require large lots. The result was a document called the Central Oregon Regional Economic Opportunity Analysis, and was the basis for Ordinance 2011-017, dated May 31, 2011.

Ordinance 2011-017 was appealed to the Land Use Board of Appeals by 1,000 Friends of Oregon ("1,000 Friends"). The appeal was stayed in early 2012 to allow Deschutes County, the

EXHIBIT E

Governor's Office, and 1,000 Friends to explore a settlement, which was ultimately reached in April, 2012. The settlement consisted of policy concepts focusing entirely on Central Oregon's short-term need for large-lot industrial sites as well as a commitment from the Department of Land Conservation and Development ("DLCD") to initiate rule-making that summer. The three counties, their respective cities, 1,000 Friends, and DLCD staff then engaged in drafting a proposed rule. In August, the final draft of that rule was then sent to the Oregon Land Conservation and Development Commission ("LCDC"). As a result, in November, the LCDC adopted Oregon Administrative Rule (OAR) 660-024-0040 and 660-024-0045. That rule provides that that the large lot industrial land need analysis agreed upon by all of the parties, once adopted by each of the participating governmental entities, would be sufficient to demonstrate a need for up to nine large industrial sites in Central Oregon. Six of the sites will be made available initially. Three more sites may be added under the rule as the original sites are occupied. After the adoption of the new OARs, Deschutes County voluntarily repealed Ordinance 2011-017 and adopted a new ordinance, Ordinance 2013-002, in accordance with the OARs.

Utilizing the new OARs, Ordinance 2013-002 emphasized Central Oregon' short term need for a critical mass of competitive and diverse vacant, developable industrial sites. An additional necessary component is an intergovernmental agreement ("IGA") between the region's jurisdictions and the Central Oregon Intergovernmental Council ("COIC"). Through the IGA, COIC will provide oversight of the short-term land supply of large-lot industrial sites to enable the region to become competitive in industrial recruitment. Once each of the three counties and their respective cities adopt similar ordinances and enter into an IGA with COIC, the large lot sites will enable industrial recruitment opportunities to attract potential industrial users to consider the region that may not have otherwise without the availability of these large lots. The IGA between COIC and the region's cities and counties was executed on April 9, 2013. Participating local governments will review the program after all nine sites have been occupied or after ten years, whichever comes first.

In February 2019, Deschutes County adopted Ordinance No. 2019-003, which implemented the large lot industrial policies defined by Oregon Administrative Rule (OAR) 660-024-0040 and 660-024-0045. The ordinance amended the Deschutes County Comprehensive Plan map to allow for 789 acres of a 949-acre parcel owned by the Oregon Department of State Lands to be incorporated into the City of Redmond's UGB (the remaining 160 acres were transferred into the UGB pursuant to different criteria). This site, referred to as the South Redmond Tract, was submitted to the Large Lot Industrial Lands program by the City of Redmond in 2015 after an extensive analysis of several potential sites utilizing the criteria of the adopted Central Oregon Large Lot Industrial Lands Needs Analysis ("the Analysis"). COIC accepted the property into the Large Lot Industrial (LLI) program on May 7, 2015. Subsequently, the City of Redmond amended its zoning code to add a Large Lot Industrial Zone, which addresses the requirements of the LLI program and ensures that properties with this zoning designation are to be utilized solely for large lot industrial or directly related purposes.

EXHIBIT E

Section 4.2 Urbanization Policies

Goals and Policies

Goal 1 **Coordinate with cities, special districts and stakeholders to support urban growth boundaries and urban reserve areas that provide an orderly and efficient transition between urban and rural lands.**

Policy 4.2.1 Participate in the processes initiated by cities in Deschutes County to create and/or amend their urban growth boundaries.

Policy 4.2.2 Promote and coordinate the use of urban reserve areas.

Policy 4.2.3 Review the idea of using rural reserves.

Goal 2 **Coordinate with cities, special districts and stakeholders on urban growth area zoning for lands inside urban growth boundaries but outside city boundaries.**

Policy 4.2.4 Use urban growth area zoning to coordinate land use decisions inside urban growth boundaries but outside the incorporated cities.

Policy 4.2.5 Negotiate intergovernmental agreements to coordinate with cities on land use inside urban growth boundaries and outside the incorporated cities.

Policy 4.2.6 Develop urban growth area zoning with consideration of the type, timing and location of public facilities and services provision consistent with city plans.

Policy 4.2.7 Adopt by reference the comprehensive plans of Bend, La Pine, Redmond and Sisters, as the policy basis for implementing land use plans and ordinances in each city's urban growth boundary.

Goal 3 **Coordinate with cities, special districts and stakeholders on policies and zoning for lands outside urban growth boundaries but inside urban reserve areas.**

Policy 4.2.8 Designate the Redmond Urban Reserve Area on the County Comprehensive Plan Map and regulate it through a Redmond Urban Reserve Area (RURA) Combining Zone in Deschutes County Code, Title 18.

Policy 4.2.9 In cooperation with the City of Redmond adopt a RURA Agreement consistent with their respective comprehensive plans and the requirements of Oregon Administrative Rule 660-021-0050 or its successor.

Policy 4.2.10 The following land use policies guide zoning in the RURA.
a. Plan and zone RURA lands for rural uses, in a manner that ensures the orderly, economic and efficient provision of urban services as these lands are brought into the urban growth boundary.
b. New parcels shall be a minimum of ten acres.
c. Until lands in the RURA are brought into the urban growth boundary, zone changes or plan amendments shall not allow more intensive uses or uses that

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- generate more traffic, than were allowed prior to the establishment of the RURA.
- d. For Exclusive Farm Use zones, partitions shall be allowed based on state law and the County Zoning Ordinance.
 - e. New arterial and collector rights-of-way in the RURA shall meet the right-of-way standards of Deschutes County or the City of Redmond, whichever is greater, but be physically constructed to Deschutes County standards.
 - f. Protect from development existing and future arterial and collector rights-of-way, as designated on the County's Transportation System Plan.
 - g. A single family dwelling on a legal parcel is permitted if that use was permitted before the RURA designation.
- Policy 4.2.11** Collaborate with the City of Redmond to assure that the County-owned 1,800 acres in the RURA is master planned before it is incorporated into Redmond's urban growth boundary.
- Goal 4** **To build a strong and thriving regional economy by coordinating public investments, policies and regulations to support regional and state economic development objectives in Central Oregon.**
- Policy 4.2.12** Deschutes County supports a multi-jurisdictional cooperative effort to pursue a regional approach to establish a short-term supply of sites particularly designed to address out-of-region industries that may locate in Central Oregon.
- Policy 4.2.13** Deschutes County recognizes the importance of maintaining a large-lot industrial land supply that is readily developable in Central Oregon.
- Policy 4.2.14** The Central Oregon Regional Large Lot Industrial Land Need Analysis ("Analysis"), adopted by Ordinance 2013-002 is incorporated by reference herein.
- Policy 4.2.15** Within 6 months of the adoption of Ordinance 2013-002, in coordination with the participating local governments in Central Oregon, Deschutes County shall, execute an intergovernmental agreement ("IGA") with the Central Oregon Intergovernmental Council ("COIC") that specifies the process of allocation of large lot industrial sites among the participating local governments.
- Policy 4.2.16** In accordance with OAR 660-024-004 and 0045, Deschutes County, fulfilling coordination duties specified in ORS 195.025, shall approve and update its comprehensive plan when participating cities within their jurisdiction legislatively or through a quasi-judicial process designate regionally significant sites.
- Policy 4.2.17** Deschutes County supports Economic Development of Central Oregon ("EDCO"), a non-profit organization facilitating new job creation and capital investment to monitor and advocate for the region's efforts of maintaining an inventory of appropriate sized and located industrial lots available to the market
- Policy 4.2.18** Deschutes County will collaborate with regional public and private representatives to engage the Oregon Legislature and state agencies and their

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commissions to address public facility, transportation and urbanization issues that hinder economic development opportunities in Central Oregon.

- Policy 4.2.19** Deschutes County will strengthen long-term confidence in the economy by building innovative public to private sector partnerships.

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Section 5.12 Legislative History

Background

This section contains the legislative history of this Comprehensive Plan.

Table 5.12.1 Comprehensive Plan Ordinance History

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County

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2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-021	11-9-15/2-22-16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Surface Mining.
2015-029	11-23-15/11-30-15	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Tumalo Residential 5-Acre Minimum to Tumalo Industrial
2015-018	12-9-15/3-27-16	23.01.010, 2.2, 4.3	Housekeeping Amendments to Title 23.

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2015-010	12-2-15/12-2-15	2.6	Comprehensive Plan Text and Map Amendment recognizing Greater Sage-Grouse Habitat Inventories
2016-001	12-21-15/04-5-16	23.01.010; 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial (exception area)
2016-007	2-10-16/5-10-16	23.01.010; 5.10	Comprehensive Plan Amendment to add an exception to Statewide Planning Goal 11 to allow sewers in unincorporated lands in Southern Deschutes County
2016-005	11-28-16/2-16-17	23.01.010, 2.2, 3.3	Comprehensive Plan Amendment recognizing non-resource lands process allowed under State law to change EFU zoning
2016-022	9-28-16/11-14-16	23.01.010, 1.3, 4.2	Comprehensive plan Amendment, including certain property within City of Bend Urban Growth Boundary
2016-029	12-14-16/12/28/16	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from, Agriculture to Rural Industrial
2017-007	10-30-17/10-30-17	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-002	1-3-18/1-25-18	23.01, 2.6	Comprehensive Plan Amendment permitting churches in the Wildlife Area Combining Zone

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2018-006	8-22-18/11-20-18	23.01.010, 5.8, 5.9	Housekeeping Amendments correcting tax lot numbers in Non-Significant Mining Mineral and Aggregate Inventory; modifying Goal 5 Inventory of Cultural and Historic Resources
2018-011	9-12-18/12-11-18	23.01.010	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2018-005	9-19-18/10-10-18	23.01.010, 2.5, Tumalo Community Plan, Newberry Country Plan	Comprehensive Plan Map Amendment, removing Flood Plain Comprehensive Plan Designation; Comprehensive Plan Amendment adding Flood Plain Combining Zone purpose statement.
2018-008	9-26-18/10-26-18	23.01.010, 3.4	Comprehensive Plan Amendment allowing for the potential of new properties to be designated as Rural Commercial or Rural Industrial
2019-002	1-2-19/4-2-19	23.01.010, 5.8	Comprehensive Plan Map Amendment changing designation of certain property from Surface Mining to Rural Residential Exception Area; Modifying Goal 5 Mineral and Aggregate Inventory; Modifying Non-Significant Mining Mineral and Aggregate Inventory
2019-001	1-16-19/4-16-19	1.3, 3.3, 4.2, 5.10, 23.01	Comprehensive Plan and Text Amendment to add a new zone to Title 19: Westside Transect Zone.

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2019-003	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the Large Lot Industrial Program
2019-004	02-12-19/03-12-19	23.01.010, 4.2	Comprehensive Plan Map Amendment changing designation of certain property from Agriculture to Redmond Urban Growth Area for the expansion of the Deschutes County Fairgrounds and relocation of Oregon Military Department National Guard Armory.
<u>2019-235</u>	<u>05-01-19/05-01-19</u>	<u>23.01.010, 4.2</u>	<u>Comprehensive Plan Map</u> <u>Amendment to adjust the</u> <u>Bend Urban Growth</u> <u>Boundary to accommodate</u> <u>the refinement of the Skyline</u> <u>Ranch Road alignment and the</u> <u>refinement of the West Area</u> <u>Master Plan Area I boundary.</u> <u>The ordinance also amends</u> <u>the Comprehensive Plan</u> <u>designation of Urban Area</u> <u>Reserve for those lands</u> <u>leaving the UGB.</u>

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HEARINGS OFFICER DECISION

FILE NUMBER: 247-18-000957-PA, 247-18-000958-ZC

HEARING: February 12, 2019 - 6:00 p.m.
Barnes & Sawyer Rooms
Deschutes Services Center
1300 NW Wall Street
Bend, OR 97701

APPLICANTS/OWNERS: NWX2, LLC
Managing Partner: Brooks Resources Corporation
409 NW Franklin Avenue
Bend, OR 97703

Tree Farm, LLC
Managing Partner: Brooks Resources Corporation
409 NW Franklin Avenue
Bend, OR 97703

Rio Lobo Investments, LLC
95 SW Scalehouse Loop, #100
Bend, OR 97702

AGENT FOR APPLICANT: Retia Consult, LLC
Tammy Wisco, PE, AICP
P.O. Box 831
Bend, OR 97709

PROPOSAL: The applicants have requested an amendment to the Deschutes County Comprehensive Plan to adjust the Bend Urban Growth Boundary (UGB) to accommodate the refinement of the Skyline Ranch Road alignment and the refinement of the West Area Master Plan Area 1 (NWX2 properties, also named Discovery West) boundary. The request also includes a Comprehensive Plan designation amendment to Urban Area Reserve for those lands leaving the UGB and a zone change for land being removed from the City of Bend UGB. The request is to rezone the subject lands to match the zone of the adjacent properties within the County. No additional living units will result from the UGB amendment. No additional water, sewer, or transportation infrastructure impacts are proposed.

HEARINGS OFFICER: Will Van Vactor
STAFF REVIEWER: Zechariah Heck, Associate Planner
zechariah.heck@deschutes.org | 541-385-1704

I. APPLICABLE STANDARDS, CRITERIA AND PROCEDURES

Deschutes County Code, Title 19, Bend Urban Growth Boundary Zoning Ordinance

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Section 19.116, Amendments, Appeals and Procedures

Deschutes County Code, Title 22, Procedures Ordinance

Section 22.28, Land Use Action Decisions

Deschutes County Code, Title 23, Comprehensive Plan

Chapter 1, Comprehensive Planning

Chapter 3, Rural Growth Management

Chapter 4, Urban Growth Management

Oregon Administrative Rules (OAR), Chapter 660

Division 15, Statewide Planning Goals and Guidelines

Division 24, Urban Growth Boundaries

Oregon Revised Statutes (ORS)

ORS 197.298, Priority of Land to be Included within Urban Growth Boundary

II. FINDINGS OF FACT

A. LOCATION AND SITE DESCRIPTION: There are four areas under three ownerships that are impacted by the proposed UGB and plan designation amendment, i.e., file no. 247-18-000957-PA.

West Area Master Plan Area 1 – NWX2, LLC

The NWX2 properties consist of 245 total acres, all currently within the Bend UGB. The Area 1 property is identified as tax lots 1711350000100, 1711350000200, 1711350000300, 1711350000400, 1711350000500, and 171135D000400. The development of these NWX2 properties will occur under the name of Discovery West.

West Area Master Plan Area 3 - Rio Lobo Investments, LLC

This area contains roughly 31 acres currently within the Bend UGB and is identified as a portion of tax lot 1711000006000.

Tree Farm Open Space

Tree Farm, LLC owns two parcels for open space, currently adjacent to the UGB line, totaling approximately 43 acres. These parcels are identified as tax lots 171135AC00100 and 1711350000700.

Transect South - Rio Lobo Investments, LLC

This Westside transect area is approximately 304 acres of tax lot 1711000006000, under Deschutes County jurisdiction.

There are two areas under two ownerships that are subject to the zone change application, i.e., file no. 247-18-000958-ZC.

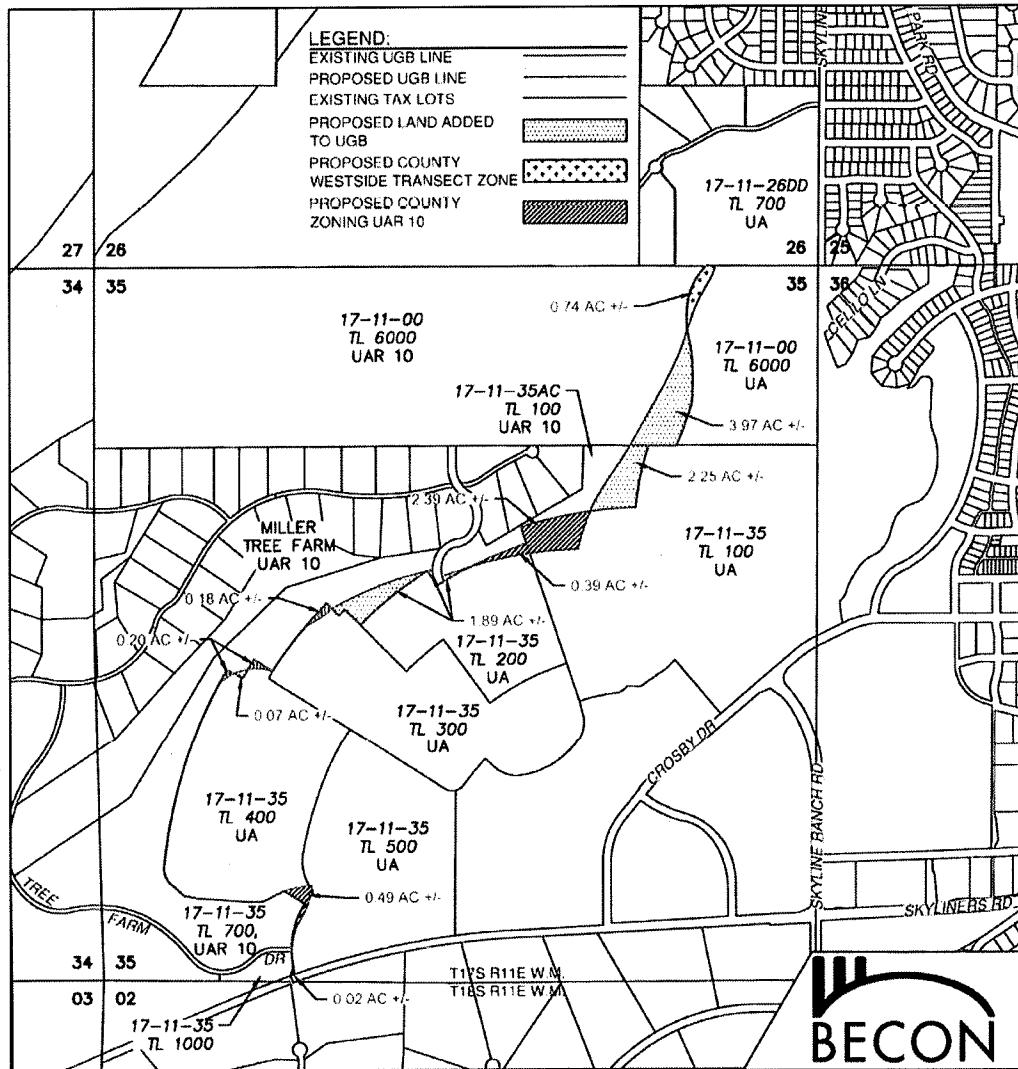
West Area Master Plan Area 1 – NWX2, LLC

The NWX2 properties consist of 245 total acres, all currently within the Bend UGB. The Area 1 property is identified as tax lots 1711350000100, 1711350000200, 1711350000300, 1711350000400, 1711350000500, and 171135D000400. Each of these tax lots include a proposed zone change for small portions of the lot, except 1711350000500, which is not affected by this application.

West Area Master Plan Area 3 - Rio Lobo Investments, LLC

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This area contains roughly 31 acres currently within the Bend UGB and is identified as a portion of tax lot 1711000006000.



B. LOT OF RECORD: Per DCC 22.04.040 Verifying Lots of Record, lot of record verification is required for certain permits.

B. Permits requiring verification

1. *Unless an exception applies pursuant to subsection (B)(2) below, verifying a lot or parcel pursuant to subsection (C) shall be required to the issuance of the following permits:*
 - a. *Any land use permit for a unit of land in the Exclusive Farm Use Zones (DCC Chapter 18.16), Forest Use Zone – F1 (DCC Chapter 18.36), or Forest Use Zone – F2 (DCC Chapter 18.40);*
 - b. *Any permit for a lot or parcel that includes wetlands as shown on the Statewide Wetlands Inventory;*
 - c. *Any permit for a lot or parcel subject to wildlife habitat special assessment;*
 - d. *In all zones, a land use permit relocating property lines that reduces in size a lot or parcel'*
 - e. *In all zones, a land use, structural, or non-emergency on-site sewage disposal*

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system permit if the lot or parcel is smaller than the minimum area required in the applicable zone;

In the Powell/Ramsey (PA-14-2, ZC-14-2) hearings officer decision, the Hearings Officer held to a prior zone change decision (Belveron ZC-08-04) that a property's lot of record status was not required to be verified as part of a plan amendment and zone change application. Rather, the applicant would be required to receive lot of record verification prior to any development on the subject property. This Hearings Officer agrees. Therefore, this criterion is not applicable to the pending applications.

- C. ZONING AND PLAN DESIGNATIONS:** The subject properties are within the jurisdiction of both Deschutes County and City of Bend. Below is a list of existing zoning and plan designations of the subject properties.

West Area Master Plan Area 1 – NWX2, LLC

Comprehensive Plan Designation - Low Density Residential (RL), Commercial Limited (CL), Mixed Employment (ME)
Zoning - Urbanizable Area (UA)

West Area Master Plan Area 3 - Rio Lobo Investments, LLC

Comprehensive Plan Designation - Low Density Residential (RL)
Zoning - Urbanizable Area (UA)

Tree Farm, LLC

Comprehensive Plan Designation - Urban Area Reserve (UAR-10)
Zoning - Urban Area Reserve (UAR-10)

Transect South - Rio Lobo Investments, LLC

Comprehensive Plan Designation - Urban Area Reserve (UAR-10)
Zoning - Urban Area Reserve (UAR-10)

- D. SURROUNDING LAND USES:** Nearby lands generally consist of residential uses, both rural and urban. Several public schools are located to the south of the subject properties. Most of the surrounding lands are undeveloped. Shevlin Park is located to the north of the subject area and Skyliners Road is to the south. Surrounding zoning districts include UAR-10, Rural Residential – 10 Acre Minimum (RR-10), UA, Open Space and Conservation (OS&C) and Residential Standard (RS) density.

- E. SOILS:** According to Natural Resources Conservation Service (NRCS) maps of the area, the subject property contains three different soil types, as described below.

72C, Laidlaw sandy loam, 0 to 15 percent slopes: This soil type is comprised of 85 percent Laidlaw soil and similar inclusions and 15 percent contrasting inclusions. Laidlaw soils are well drained with moderately rapid permeability. The available water capacity is about 8 inches. The major use of this soil is woodland and livestock grazing. Laidlaw soils have an agricultural capability rating of 6E, which is not considered a high-value soil.

155D, Wanoga sandy loam, 15 to 30 percent slopes: This soil type is comprised of 85 percent Wanoga and similar soils and 15 percent minor components. Wanoga soils are found on hillslopes and contain a parent material of volcanic ash over tuff or basalt. There is typically 20 to 40 inches of top soil to a restrictive feature. The available water storage is 4.9 inches. The land capability classification is 6e, either irrigated or unirrigated.

157C, Wanoga-Fremkle-Rock outcrop complex, 0 to 15 percent slopes: This soil complex is composed of 35 percent Wanoga soils and similar inclusions; 30 percent Fremkle soils and similar inclusions; 20 percent

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rock outcrop; and 15 percent contrasting inclusions. The Wanoga and Fremkle soils are well drained, with a moderately rapid permeability and an available water capacity of about two to four inches. The major use of this soil complex is livestock grazing and woodland. The agricultural capability rating for the Wanoga and Fremkle soils is 6e with irrigation and 4e without irrigation. The rock outcrop is rated at 8E, with or without irrigation. Section 18.04.030 of the DCC does not consider this soil type high-value farmland when irrigated.

- F. PUBLIC AND PRIVATE AGENCY COMMENTS:** On January 11, 2019, the Planning Division mailed notice of the application and notice of the public hearing to several agencies. One comment was submitted.

Peter Russell, Deschutes County Senior Transportation Planner

I have reviewed the submitted materials for 18-957-PA/958-ZC regarding a Bend UGB adjustment related to a minor realignment for the future Skyline Ranch Road and refine the western boundary of Northwest Crossing 2 (NWX2). This also requires a plan amendment and zone change to ensure consistency with the recently approved Westside Transect for around 2,380 acres in this area. Approximately a net 4 acres in the County are affected by this current application.

The history of Skyline Ranch Road and its latest alignment due to topography as well as the transportation grid are discussed in the burden of proof on pages 7-8. Goal 12, Transportation, and compliance with the Transportation Planning Rule, are discussed on pages 12-13. I agree with the applicant's findings.

The following agencies either had no comment or did not respond to the notice: Bend Growth Management Department, Bend Metro Parks & Recreation Department, Bend Public Works Department, Department of Land Conservation and Development, Deschutes County Road Department, Deschutes County Surveyor, ODOT Regional 4 Planning, Oregon Department of Fish and Wildlife, Oregon Parks and Recreation, Region 4.

- G. PUBLIC COMMENTS:** On January 11, 2019, the Planning Division mailed a notice of public hearing to all property owners within 250 feet of the subject property. No written comments were received as of the date the staff report was released.

- H. NOTICE REQUIREMENT:** The applicant complied with the posted notice requirements of Section 22.23.030(B) of Deschutes County Code (DCC) Title 22. The applicant submitted a Land Use Action Sign Affidavit, dated January 1, 2019, indicating the applicant posted notice of the land use action on the property on January 3, 2019.

As stated above, on January 11, 2019, the Planning Division mailed a Notice of Public Hearing to all property owners within 250 feet of the subject lands. A Notice of Public Hearing was published in the Bend Bulletin on January 19, 2019. Notice of the first evidentiary hearing was submitted to the Department of Land Conservation and Development on January 7, 2019 (DLCD File No. 001-19).

- I. REVIEW PERIOD:** The application was submitted on December 21, 2018. The application was deemed complete on January 18, 2019. According to Deschutes County Code 22.20.040(D), the review of the proposed quasi-judicial Plan Amendment and Zone Change application is not subject to the 150-day review period.
- J. LAND USE HISTORY:** The application materials provide background on the subject properties and the applicants' request.

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"In 2016, the City of Bend Council proposed several amendments to the text and maps of the City's Comprehensive Plan and Bend Development Code (BDC). Among these amendments was an expansion of the Bend UGB to add 2,380 acres of land for needed housing, employment opportunities and other urban uses. In addition, the 2016 UGB amendment was accompanied by amendments to the Comprehensive Plan to direct the future development of the subject west side properties."

Previous land use actions associated with the subject properties are provided below.

Tax Lot	File Nos.
1711000006000	<ul style="list-style-type: none"> • MJP-85-3 Approval of major partition to create three parcels • MJP-88-7 approved 330-acre parcel • LR-05-14 lot of record determination for the subject property • CU-05-17 & TP-05-958 - Hearings Officer denial of 34-lot subdivision • 247-17-000420-LL incomplete application to adjust property line • 247-17-001013-ZC, 1014-PA, 1015-TA withdrawn plan amendment, text amendment, zone change for the Westside Transect Zone • 247-18-000400-LL property line adjustment approval • 247-18-000612-ZC, 613-PA, 614-TA approved plan amendment, text amendment, zone change for the Westside Transect Zone.
1711350000100	<ul style="list-style-type: none"> • PS-08-8 Land Use Information Form re: water-right transfer • 247-LL-14-16 approved property line adjustment
1711350000200	<ul style="list-style-type: none"> • LL-14-18 approved property line adjustment (associated with LL-14-16 through LL-14-26)
1711350000300	<ul style="list-style-type: none"> • 247-LL-14-19 approved property line adjustment (associated with LL-14-16 through LL-14-26)
1711350000500	<ul style="list-style-type: none"> • SP-91-124 approval of site plan for water reservoir • LR-14-5 lot of record findings • LL-14-22 approved property line adjustment (associated with LL-14-16 through LL-14-26) • 247-14-000244-CU, 245-TP, 247-15-000166-A, 167-A, 247-16-000504-FPA files associated with the approval of the Tree Farm subdivision
171135D000400	<ul style="list-style-type: none"> • PA-97-2 and ZC -97-2 approval of zone change and plane amendment • MA-97-6 modification of PA-97-2 and ZC -97-2 • PA-04-9 and ZC-04-7 approval of plan amendment and zone change (Surface Mining to Urban Area Reserve) • PA-07-7 approval of a plan amendment to expand UGB • MP-07-34 partition approval • LL-13-50 property line adjustment • PA-13-4 approval of a plan amendment to expand Bend UGB • 247-LL-14-16 and 247-LL-13-50 approval of property line adjustments

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171135AC00100	• No previous land use decisions associated with this file no.
1711350000700	• No previous land use decisions associated with this file no.
1711350000400	• 247-LL-14-20 and LL-14-22 (associated with LL-14-16 through LL-14-26)
171126DD00700	• ZC-00-5, TP-00-916, CU-00-112 approval of a zone change and four-lot PUD

III. CONCLUSIONS OF LAW

TITLE 19 – THE BEND URBAN GROWTH BOUNDARY ZONING ORDINANCE

Chapter 19.116, Amendments, Appeals and Procedures

Section 19.116.010. Amendments

DCC Title 19 may be amended by changing the boundaries of zones or by changing any other provisions thereof subject to the provisions of DCC 19.116.

- A. *Text changes and legislative map changes may be proposed by the Board of County Commissioners on its own motion, by the motion of the Planning Commission, upon payment of a fee, by the application of a member of the public. Such changes shall be made pursuant to DCC 22.12 and ORS 215.110 and 215.060.*

FINDING: The aforementioned property owners have requested a quasi-judicial plan amendment and zone change. The applicants have filed the required Planning Division's land use application forms for the proposals. The applications will be reviewed under the applicable procedures contained in Title 22 of the Deschutes County Code.

- B. *Any proposed quasi-judicial map amendment or change shall be handled in accordance with the applicable provisions of DCC Title 22.*

FINDING: The applicants are seeking a quasi-judicial zoning map amendment under the applicable provisions of DCC Title 22.

Section 19.116.020. Standards for Zone Change

The burden of proof is upon the applicant. The applicant shall in all cases establish:

- A. *That the change conforms with the Comprehensive Plan. Specifically, the change is consistent with the plan's intent to promote an orderly pattern and sequence of growth.*

FINDING: The following provisions of Deschutes County's Comprehensive Plan are relevant to the applicants' proposal and should be considered in reviewing the proposal to change the zone changes. However, the Land Use Board of Appeals (LUBA) found in *Save Our Skyline v City of Bend*, 48 Or LUBA 192 (2004), that: "Comprehensive plan statements, goals and policies typically are not intended to, and do not, constitute mandatory approval criteria for quasi-judicial land use permit applications."

As the application materials state, the proposed zone change is associated with a concurrently submitted UGB adjustment which results in some land being added to the UGB and some land being removed from the UGB. There are approximately four acres that are proposed to be rezoned, from City zoning to County Zoning, e.g., Low

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Density Residential (RS) to UAR-10 and Westside Transect Zone (WTZ). The county zones allow a lower residential density than under the current RS zoning.¹

The applicants suggest, "The decrease in residential density along the UGB edge provides for the implementation of the transect concept, supporting an orderly pattern and sequence of growth, from low density to higher density when entering into the UGB."

The applicants' proposal is to modify the Bend UGB in order to accommodate a feasible alignment of the future Skyline Ranch Road and to refine the western border of West Area Master Planned Area 1. There will be no increase in sewer, water or transportation demands. In total, approximately four acres are proposed to be removed from the Bend UGB and approximately 8.18 acres are proposed to be added to the UGB, with a net increase of 4.16 acres into the UGB. This increase in land added to the UGB is solely to accommodate the Skyline Ranch Road right-of-way.

The Hearings Officer finds the applicants' proposal is consistent with the Comprehensive Plan's intention to promote an orderly pattern and sequence of growth because the subject properties are not designated resource lands, there is no change in housing density, and there is no impact on urbanization or consequences of resource management.

Additional Comprehensive Plan policies are addressed later in this Decision.

B. That the change will not interfere with existing development, development potential or value of other land in the vicinity of the proposed action.

FINDING: The applicants addressed the criterion by stating their request asks for a zone change to match the adjacent zoning districts, thereby "providing a seamless connection between the county lands, with no zoning line between them." The Hearings Officer finds this statement adequately addresses this criterion. The proposed zone change for both the subject areas would simply allow the land to conform to the existing zoning of the adjacent County lands. If the change in classification is approved, the subject lands will be required to develop in a way that provides a transitional development pattern and maintains open space, wildfire, and wildlife management. Moreover, there is no evidence in the record that the proposed change will interfere with existing development, development potential or value of land in the vicinity of the subject properties.

C. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

FINDING: The applicants have proposed to amend the Bend UGB to accommodate a realignment of Skyline Ranch Road and to refine the western border of the West Area Master Planned Area 1. The associated plan designation amendment is to provide County designations for the land being removed from the UGB.

The stated purpose of the WTZ is:

To accommodate and provide standards for land located between urban and rural, forested, park or federal areas that provides a transitional residential development pattern with densities ranging from one unit per 2.5 to 10 acres to guide development of communities which are designed and managed to protect wildlife habitat and establish and maintain wildfire mitigation and prevention strategies.

The stated purpose of the UAR-10 Zone is:

¹ Existing city zoning allowed density: 1.1 – 4.0 units/gross acre. Proposed zoning, UAR-10, allows 0.1 units/acre and WTZ allows 0.4 units/acre.

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To serve as a holding category and to provide opportunity for tax differentials as urban growth takes place elsewhere in the planning area, and to be preserved as long as possible as useful open space until needed for orderly growth.

Both the WTZ and UAR-10 zones are intended to be transitional areas between urban and rural lands. The proposed zone change for both the subject areas would simply allow the land to conform to the existing zoning of the adjacent County lands. With the change, the subject lands will be required to develop in a way that provides a transitional development pattern and maintains open space, wildfire, and wildlife management. The Hearings Officer finds the proposed change in classification is consistent with the purpose and intent of the proposed zoning classifications.

- D. That the change will result in the orderly and efficient extension or provision of public services. Also, that the change is consistent with the County's policy for provision of public facilities.**

FINDING: The application materials summarize the proposed change as having two general areas of land: 1) land entering the County at The Tree Farm open space; and 2) land entering the county and joining the Transect South area owned by Rio Lobo Investments, LLC. According to the applicants' burden of proof, the land proposed to join The Tree Farm will not be developed and will be kept as open space in perpetuity. Therefore, no public facilities or services are necessary for this land. The land proposed to enter the County under the new zoning designation of the WTZ, is anticipated to become part of future development.² Any new development that occurs within this area, approximately 0.74 acres, will be subject to the development requirements of the WTZ, which were found to be in compliance with this criterion in Ordinance No. 2019-001.

The application materials also state, "[t]his zone change request in the Transect South area is a result of concurrently submitted UGB and TSP amendments to realign Skyline Ranch Road, for the timely, orderly and efficient development of a west side north-south collector road, a City public facility that will serve both City and County residents."

The Hearings Officer finds applicant's proposal complies with this criterion. The change will result in the orderly and efficient extension or provision of public services and the change is consistent with the County's policy for provision of public facilities. Specifically, the realignment of Skyline Ranch Road acknowledges the property owners are agreeable to improvements on their land in order to achieve an orderly and efficient extension of the city's transportation systems plan. All other public facilities can reasonably be accommodated for developments within the subject areas. Moreover, the proposal does not inhibit extension of public facilities through the subject properties in any foreseeable way. Finally, the Hearings Officer notes that development in the subject areas will need to comply with applicable requirements of the DCC, including land use permits, building permits, and sewage disposal permit processes. Through these development review processes, assurance of adequate public services and facilities will be verified.

- E. That there is proof of a change of circumstance or a mistake in the original zoning.**

FINDING: The applicant addressed this criterion in their burden of proof, stating the following.

"The purpose of the requested zone changes is to accommodate a Bend UGB adjustment (include removal of some land from the UGB) for two refinements along the west side of Bend:

- 1. To accommodate a City TSP amendment for the realignment of Skyline Ranch Road, and**

² This zone was adopted by the Board of County Commissioners on January 16, 2019 and becomes effective, if not appealed, on April 16, 2019.

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2. *To refine the western border of the West Area Master Plan Area 1 (NWX2 properties, Discovery West).*

...

Skyline Ranch Road Alignment History

In 2016, the City of Bend Council adopted several amendments to the text and maps of the City's Comprehensive Plan and Bend Development Code (BDC), including the Transportation System Plan (TSP). Among these amendments was a TSP amendment to shift the alignment of Skyline Ranch Road, a north-south major collector. Included in Exhibit C [of application materials] are original maps created by NWX2 as a part of a long-range conceptual planning study several years ago regarding the Tree Farm and Discovery West properties, which were then under one ownership. NWX2 used the best information available at the time to layout conceptual roadway alignments and project boundaries. This included unrefined topographical information and over-estimates on the required number of housing units for the NWX2 properties. When the City of Bend was wrapping up work on its 2016 UGB expansion, it utilized the alignment of Skyline Ranch Road as depicted on Exhibit C in its TSP map as the best available information at the time.

Through recent further design and detailed topographical surveys in 2018, it was determined that the alignment of Skyline Ranch Road was not depicted on the City TSP map in a feasible location, due to topographical challenges of the area. The City TSP amendment is submitted to the City in a concurrent application and simply refines the alignment of Skyline Ranch Road to better reflect the physical features and topography of the area. With detailed topographical surveys of the subject properties, the roadway alignment has been improved based upon reasonable profiles and better connectivity to adjacent neighborhoods.

This roadway realignment through the north portion of the NWX2 properties and through the Rio Lobo Investments property results in a proposal for some land to enter the UGB and some land to leave the UGB. This zone change application addresses those lands proposed to leave the UGB and return to County jurisdiction. The proposed alignment refinement and associated UGB adjustment and zone changes remedy a "mistake" in the location of the alignment originally placed on the map, which did not fully consider the topographical challenges of the sites.

West Area Master Plan Area 1 (NWX2 properties) Boundary Adjustment History

The current boundary between Tree Farm and the Discovery West property was arrived at through a conceptual master planning effort completed in 2011 for all of the Miller Tree Farm property (see Exhibit C [of application materials]). This master planning effort was conducted prior to the City reinitiating its UGB expansion process that wrapped up in 2016, and it was assumed at the time that the urban portion of the master plan (which became West Master Plan Area 1) would be much higher density than the 650 residential units that were ultimately assigned to it. As such, the street pattern on the western portion of what became Discovery West assumed a much finer grained roadway network designed to serve smaller urban residential lots. The irregular "saw tooth" pattern of the Tree Farm/Discovery West property boundary was based on this concept plan, which was then memorialized through a lot line adjustment to establish the project boundary and ultimately, the final plat of Tree Farm. The City's UGB simply followed these established property lines.

When the UGB was approved in 2016, it included a "transect concept" for the West expansion area that specified a de-densification of residential development from east to west towards the UGB line, and a limit on the total number of housing units that was roughly 1/3 of what had been anticipated in 2011. This has led to larger lot sizes on the westernmost portion of the Discovery

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West Master Plan for the NWX2 properties, and therefore the need for fewer streets to serve the larger lots. The proposed zone change in this area is the result of the subsequently submitted UGB amendment for a more regular shaped boundary that eliminates the majority of the small "saw tooth" angles that had been designed to work around the smaller lots and street network. The amended boundary will result in a more efficient development pattern to accommodate the larger lots. The land leaving the UGB in this area is proposed in this application to be re-zoned to UAR-10 and included as a part of the Tree Farm open space. A subsequent land use application to Deschutes County will modify the Tree Farm 1 PUD approval (247-14-000242-CU, 247-14-000243-TP) to remove and add the adjusted areas to Tree Farm open space. Again, the zone change proposed herein for those lands leaving the UGB is to remedy a previous "mistake" due to incorrect assumptions made at the time of long-range planning of the subject properties.

The above statements from the applicants constitute sufficient evidence explaining why the applicants have requested the proposed UGB amendment and zone change, most notably that the original layout of the Skyline Ranch Road did not take into consideration the challenging topography of the land, as well as the lot-layout assumptions made for the West Area Master Plan properties. The City and County simply did not have the information available in 2016 that is now available. The new information demonstrates that in 2016 a mistake was made in the regard to the proposed alignment of Skyline Ranch Road. Alternatively, the applicants' evidence proves that the new information constitutes a change of circumstances from 2016, where such information was not available.

The Hearings Officer finds the applicants have demonstrated compliance with this criterion.

Section 19.116.030. Record of Amendments.

The signed copy of each amendment to the text of Title 19, including the legal description of all lands rezoned legislatively or quasi judicially, shall be maintained on file in the office of the County Clerk. A record of such amendments shall be maintained in a form convenient for the use of the public by the Planning Director, including a map showing the area and date of all amendments hereto. The County Clerk shall keep the map of DCC Title 19 as originally enacted. Every five years after the enactment hereof, a map showing the cumulative amendments hereto for that period shall be filed with the County Clerk. In case of inconsistencies, the controlling record shall be first the original map filed with the County Clerk, and its five year updates, if any. The Planning Director's map shall control as to map amendments not shown on the original for changes less than five years old.

FINDING: Staff recommended that if the applicants' proposal is approved, this should be made a condition of approval. The Hearings Officer agrees and adopts the following condition of approval:

CONDITION OF APPROVAL: *The applicant shall comply with DCC 19.116.030 by recording a signed copy of this approved amendment, including the legal description of the lands rezoned hereunder, with the Deschutes County Clerk. Such document shall be in a form reasonably acceptable to the Planning Director.*

Section 19.116.040. Resolution of Intent to Rezone.

If, from the facts presented and findings and the report and recommendations of the Hearings Officer, as required by DCC 19.116.040, the County Commission determines that the public health, safety, welfare and convenience will be best served by a proposed change of zone, the County Commission may indicate its general approval in principal of the proposed rezoning by the adoption of a "resolution of intent to rezone." This resolution shall include any conditions, stipulations or limitations which the County Commission may feel necessary to require in the public interest as a

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prerequisite to final action, including those provisions which the County Commission may feel necessary to prevent speculative holding of property after rezoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such a resolution a binding commitment on the County Commission. Such a resolution shall not be used to justify spot zoning or create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning. Upon completion of compliance action by the applicant, the County Commission shall, by ordinance, effect such rezoning. The failure of the applicant to substantially meet any or all conditions, stipulations or limitations contained in a resolution of intent, including the time limit placed in the resolution, shall render said resolution null and void automatically and without notice, unless an extension is granted by the County Commission upon recommendation of the Hearings Officer.

- A. *Content of Site Plan. Where a site plan is required pursuant to DCC 19.92, it shall include location of existing and proposed buildings, structures, accesses, off street parking and loading spaces and landscaping; existing and proposed topography; mechanical roof facilities, if subject property is so oriented as to become part of the view from adjacent properties; architectural perspective, layout and all elevations drawn without exaggerations, except where noted, including locations, area and design of signs and all landscaping.*
- B. *Resolution on Intent Binding. The fulfillment of all conditions, stipulations and limitations contained in the resolutions of intent on the part of the applicant shall make the resolution binding on the County Commission. Upon compliance with the resolution by the applicant, the County Commission shall, by ordinance, effect such reclassification.*

FINDING: This criterion is not applicable at this time. The Board of County Commissioners can revisit this criterion after conducting a public hearing and deliberations.

TITLE 23 OF THE DESCHUTES COUNTY CODE (COMPREHENSIVE PLAN)

Chapter 1, Comprehensive Planning

Section 1.3, Land Use Planning

Goal 1. Maintain an open and public land use process in which decisions are based on the objective evaluation of facts.

FINDING: The applicants have requested a County Comprehensive Plan amendment to adjust the Bend UGB in order to accommodate the refinement of the Skyline Ranch Road alignment and the refinement of the West Area Master Plan Area 1 boundary. The request includes a Comprehensive Plan designation amendment to Urban Area Reserve for those lands leaving the UGB. The applicants also request a zone change for land being removed from the UGB to match the zone of the adjacent properties within the County. The applicants have also submitted an amendment to the Bend Comprehensive Plan Map and Transportation System Plan for the same reasons.

The County intends to follow procedures outlined in Title 22, the Deschutes County Development Procedures Ordinance, in order to ensure a land use process that is open and based on objective evaluation of facts. At a minimal, the Hearings Officer has already conducted one public hearing, and the Board of County Commissioners will conduct at least one hearing before making a final decision. The County has and will provide the required notice to these hearings to the public. The Hearings Officer finds that the process is open and public and will likely be based on an objective evaluation of the facts.

Goal 2. Promote regional cooperation and partnerships on planning issues.

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FINDING: The proposal requires review from both the City of Bend and Deschutes County. The applicants have submitted concurrent applications to both jurisdictions. The two concurrent application were presented at a joint public hearing before a Hearings Officer that will review the county and city applications simultaneously. Furthermore, the applicant has met with County and City staff to discuss their proposal. Given the structure of the UGB amendment process and the applicants' willingness to engage both the County and the City, the Hearings Officer concludes this proposal is based on a cooperative partnership process for regional planning and is consistent with this goal.

Chapter 3, Rural Growth Management

Section 3.3, Rural Housing Policies

Goal 1. Maintain the rural character and safety of housing in unincorporated Deschutes County.

FINDING: The proposed UGB adjustment results in approximately 8.18 acres being added to the Bend UGB and 4.02 acres being removed from the UGB. The requested zone change application addresses the 4.02 acres proposed to be removed from the Bend UGB and placed back into Deschutes County jurisdiction. The applicants contend, "The proposed zone change of a small amount of land returning to County jurisdiction does not impact the County's housing policies."

The Hearings Officer finds that this application will not adversely impact the rural character and safety of housing in unincorporated Deschutes County, as the proposal is not planned to be used for housing. The 0.74 acres that are proposed to be taken out of the Bend UGB and zoned changed to the WTZ will not have an impact on housing because the zone has a density cap of 187 units. The approximate 3.67 acres to be taken out of the Bend UGB and zoned changed to UAR-10 is proposed to be added to the Miller Tree Farm subdivision as open space. Based on the above planning provisions and the applicant's burden of proof, the Hearings Officer finds that the proposal complies with rural housing Goal 1.

Chapter 4, Urban Growth Management

Section 4.2, Urbanization Policies

Goal 1. Coordinate with cities, special districts and stakeholders to support urban growth boundaries and urban reserve areas that provide an orderly and efficient transition between urban and rural lands.

Goal 2. Coordinate with cities, special districts and stakeholders on urban growth area zoning for lands inside urban growth boundaries but outside city boundaries.

Goal 3. Coordinate with cities, special districts and stakeholders on policies and zoning for lands outside urban growth boundaries but inside urban reserve areas.

FINDING: As stated above, the proposal requires review from both the City of Bend and Deschutes County. The applicants have submitted concurrent applications to both jurisdictions. The proposed UGB amendment and subsequent zone changes were selected to accommodate a feasible alignment of Skyline Ranch Road and refinement of the border of the West Area Master Plan to allow for a more efficient development pattern.

Staff scheduled a joint public hearing before a Hearings Officer that is reviewing the county and city applications. Furthermore, the applicant has met with County and City staff to discuss their proposal. Notice of the application and public hearing was mailed to property owners within 250 feet of the subject area. There were no public comments before the public hearing or at the public hearing. Lastly, the hearing scheduled for February 12 will be open to the public and the public will be encouraged to provide testimony. The Hearings Officer concludes there has been adequate coordination with cities, special districts and stakeholders to provide an orderly and efficient

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transition between urban and rural lands. The Hearings Officer finds compliance with applicable urbanization policies has been demonstrated.

OREGON ADMINISTRATIVE RULES CHAPTER 660 LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

OAR 660-015, Division 15, Statewide Planning Goals and Guidelines

Goal 1, Citizen Involvement. *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

FINDING: The proposed UGB amendments and associated zone change complies with the actions required by the Deschutes County Development Code, including two public hearings—first with a Hearings Officer, then with the Board of County Commissioners—and notice of the hearing published in a newspaper (*The Bulletin*) at least twenty days in advance.³ Public agencies affected by this amendment were involved throughout the development of the proposal. In accordance with the Deschutes County Code, property owners potentially affected by the amendment (in this case, within 250 feet of the applicant property) were provided notice of the proposed amendment and hearing.

In addition, the applicants state they held a public meeting on November 12, 2018, to inform property owners in the vicinity of their application proposal. This goal is met.

Goal 2, Land Use Planning. *To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

FINDING: This goal is met because ORS 197.610 allows local governments to initiate post acknowledgment plan amendments (PAPAs). A Department of Land Conservation and Development (DLCD) 35-day notice was initiated on January 7, 2019. This proposal satisfies this goal because the applications were handled pursuant to the procedures applicable to plan amendments in the county's comprehensive plan and zoning ordinance. The applicants have submitted evidence supporting the UGB amendment, plan designation amendment and zone change. The Hearings Officer will review all application materials and public comments, then compose findings associated with the applicable criteria. Therefore, the County will utilize an adequate factual base to make a decision on this application. This goal is met.

Goal 3, Agricultural Lands. *To preserve and maintain agricultural lands.*

Goal 4, Forest Lands. *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

FINDING: There are no agricultural or forest lands within the subject area. Therefore, Goal 3 and 4 are not applicable.

Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources. *To protect natural resources and conserve scenic and historic areas and open spaces.*

³ Affidavit of Publication contained within record – published in *The Bulletin* on January 19, 2019.

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FINDING: In summary, the applicants' burden of proof, provided below, concludes the subject property does not include any significant historic or natural resources. It does not include any wetlands, habitat for sensitive, threatened or endangered plant or animal species, wilderness values, and no mineral potential or mineral rights. It contains no significant historic or cultural resources. Therefore, the requirements of Goal 5 are met.

The Bend City Council found in the 2016 UGB expansion decision that the subject properties do not include any of the following Goal 5 resources: riparian corridors, wetlands, Federal Wild and Scenic Rivers, State Scenic Waterways, groundwater resources, approved Oregon Recreation Trails, natural areas, wilderness areas, mineral and aggregate resources, energy sources and cultural areas. Those findings note that the City relied on the inventory included in the Deschutes County Comprehensive Plan and available information from State and Federal sources to make this determination.

The Council also found that the big game winter range (BGWR) is included in the West and Shevlin areas, based upon a 2009 Oregon Department of Fish and Wildlife (ODFW) map of big game (deer and elk) winter ranges (see Exhibit E [in application materials]). The subject properties of this application are within this area, however, none of the subject properties are within the Deschutes County Wildlife Combining Zone.

As there are no Safe Harbor provisions to guide the creation of a wildlife protection program, the City used an economic, social, environmental and energy (ESEE) analysis process and requirements of OAR 660-023-0040 and 660-023-0050 to guide the development of a protection program (see Exhibit E [in application materials]). Through this analysis, Council found that the BGWR values in the West Area could be protected by applying a combined "Limit" and "Allow" approach through transect concepts and master planning. To address this approach, the City adopted the following Comprehensive Plan policies:

11-54 *The City will consider applying the concept of a "transect" to appropriate areas. The transect is a series of zones that transition from urban to rural which can reduce the risk of wildfire and provide an appropriate transition from urban uses to national forest lands and other resource areas, such as wildlife habitat, that will not be urbanized within the long-range future.*

11-101 *For the West Area, shown on Figure 11-4, the central planning concepts are to: provide a limited westward expansion that complements the pattern of complete communities that has begun with Northwest Crossing due to the existing concentration of schools, parks, commercial and employment lands; and create a transect from higher densities along Skyline Ranch Road to lower density and open space along the western edge in this area which approaches National Forest land and park open spaces, in order to provide buffers for wildlife and wildfire.*

The proposed UGB amendment for the realignment of Skyline Ranch Road and refinement of the western boundary of NWX2 does not change the density or use requirements the Comprehensive Plan sets for each of the subject properties. The Applicants will apply a transect concept to appropriate areas, as guided by the Comprehensive Plan. Master planning of the subject properties will continue to be required to ensure implementation of the transect concept and other requirements of the Comprehensive Plan and Bend Development Code. For all the forgoing reasons, the requirements of Goal 5 are met.

Goal 6, Air, Water and Land Resources Quality. To maintain and improve the quality of the air, water, and land resources of the state.

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FINDING: The applicants' burden of proof provides the following.

Air and water quality are regulated by the Oregon Department of Environmental Quality. For areas within the Bend UGB, the Bend Development Code includes regulations for the Waterway Overlay Zone (WOZ) and Areas of Special Interest (ASI), which has been acknowledged by the Department of Land Conservation and Development. The subject properties are not located within the WOZ nor do they contain an ASI. The Applicant is not proposing an exception to compliance with Goal 6. Maintaining or improving the quality of the community's air, water and land resources will be assured through enforcement of state and local regulations. Noise levels will not exceed DEQ noise regulations.

Through the 2016 Bend UGB expansion, the City found that the UGB expansion satisfied Goal 6 for several reasons:

- *"The proposal does not include new areas along the Deschutes River or Tumalo Creek; the proposed efficiency measures and areas for expansion direct growth away from these areas."*
- *The proposal will maintain and improve the quality of air resources because it has been designed to reduce the growth of vehicle miles traveled (VMT), which will help in limiting or avoiding new greenhouse gas emissions from auto and truck traffic.*
- *The planned housing mix makes a shift from single-family detached, to more attached housing types, which studies have shown typically consume less energy than single-family dwellings."*

The proposed amendments in this application do not change any of the findings in the 2016 UGB expansion decision, as there is no increase in required/permited housing units. Additionally, the proposal does not result in additional water or sewer impacts.

The Hearings Officer finds the proposal will not impact air, water and land resources quality due to the extent of the amendments. This goal is met.

Goal 7, Areas Subject to Natural Disasters and Hazards. *To protect people and property from natural hazards.*

FINDING: The applicants' state the City of Bend adequately addressed Goal 7 during the 2016 UGB Expansion and that the current proposal does not change any wildfire management regulations or increase the amount of development on the subject properties, which were assessed during the 2016 UGB analysis. The Hearings Officer finds the proposal is consistent with Goal 7.

Goal 8, Recreational Needs. *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

FINDING: The applicants' response suggests Goal 8 is met because the property owners have coordinated with the Bend Parks and Recreation District (BPRD) and have determined the impacted subject lands will not negatively impact recreational space nor land currently owned by or planned to be owned by BPRD. Furthermore, the applicants' also state there are no Goal 8 Destination Resorts within the vicinity and none of the property owners plan on establishing a destination resort.

The applicants provided a table, provided below, listing the subject properties and the planned uses for each area.

Tax Lot, Owner	Planned Use
1711350000400, Rio Lobo Investments, LLC	<i>Land within UGB = Mixed housing, per Bend</i>

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	Comprehensive Plan policies <i>Land outside UGB</i> = Currently, an application for a zone change to Westside Transect Zone is being reviewed by the County.
1711350000100 (portion), NWX2, LLC 1711350000200(portion), NWX2, LLC 1711350000300 (portion), NWX2, LLC 1711350000400, NWX2, LLC 1711350000500, NWX2, LLC	These parcels are all planned for largely residential development with discreet housing unit requirements set by the City of Bend Comprehensive Plan, in addition to some limited commercial and mixed employment areas.
1711350000700, Tree Farm, LLC 1711350000100, Tree Farm, LLC	These parcels are preserved as open space for The Tree Farm development.

The Hearings Officer finds the applicants' proposal is compliant with Goal 8 for the reasons articulated by the applicant.

Goal 9, Economy of the State. *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

FINDING: The applicants contend the proposed amendments will not impact the amount of employment lands identified during the 2016 UGB expansion process and the associated 2016 Bend Economic Opportunities Analysis. The reason being that the current proposal is limited to approximately eight acres that are or will be dedicated to residential or open space designations. Furthermore, a reason for the proposed amendments is to accommodate a more feasible and effective alignment for Skyline Ranch Road, which will serve the west-side neighborhoods, including the commercial and mixed employment areas.

The Hearings Officer finds the applicants have adequately addressed compliance with Goal 9.

Goal 10, Housing. *To provide for the housing needs of citizens of the state.*

FINDING: The Hearings Officer finds the proposal to be consistent with Goal 10 based on the applicants' response, provided below.

Goal 10 imposes obligations on local governments to provide an adequate supply of housing for all income levels. In fact, the City's 2016 Urban Growth Boundary expansion and related set of efficiency measures will ensure the City has an adequate supply of buildable land for needed housing. The 2016 UGB expansion process included a Housing Needs Analysis and a Buildable Lands Inventory to establish a need for housing land in the Urbanization Report. From these reports, Council found that the additional land added to the UGB and the land already in the UGB will provide a supply of buildable land that the City has shown will help meet the City's needed mix of housing in both the existing boundary and those areas added through the expansion. Through the UGB expansion process, the City's Comprehensive Plan was amended to assign a specific required number of housing units for the subject properties. This currently proposed amendments simply refine the boundary of the UGB and plan designations along the edges of the subject properties; they do not change the number of housing units required (or allowed) for the subject properties. Based on the UGB expansion findings and the fact that these amendments will not change those findings or the number of housing units, the requirements of Goal 10 are met.

Goal 11, Public Facilities and Services. *To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

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FINDING: The Hearings Officer finds compliance with Goal 11 is met based on the analysis completed by the City as part of the 2016 UGB Expansion, the signed development agreement – as discussed in the application materials – and the applicants' assertion the proposed amendments will not change the findings or results of these documents. Rural development will be subject to onsite wastewater treatment systems.

Goal 12, Transportation. *To provide and encourage a safe, convenient and economic transportation program.*

FINDING: The applicants contend their proposal is exempt from compliance with Goal 12 because of a provision in OAR 660-024-0020(d), provided below.

(d) The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary;

The proposed UGB amendment does add land to the UGB that is currently zoned Urban Area Reserve (UAR-10). The applicant acknowledges, "While the zoning of the land will ultimately be changed through master planning and annexation processes, no additional development is proposed nor allowed as a result of these proposed UGB and plan designation amendments." The applicant goes on to state that while the proposal should be considered exempt from the TPR, the proposal is actually supportive of Goal 12 by accommodating the refinement of the Skyline Ranch Road alignment to better utilize existing topography. Comments from the Deschutes County Transportation Planner affirm this statement. The applicants suggest the refined alignment will be more economical to construct and maintain, as well as more convenient for multi-modal users. The Hearings Officer agrees and finds if compliance with Goal 12 is mandatory, the reasoning for the amendment is in compliance with Goal 12.

Goal 13, Energy Conservation. *To conserve energy.*

FINDING: The applicant states the proposed amendments support the City's previous Goal 13 findings pertaining to the 2016 UGB expansion by better aligning the Skyline Ranch Road and amending the UGB along the West Area Master Plan Area 1; both reasons conserve energy through efficient design and connectivity of neighborhoods. The applicants' proposal is compliant with Goal 13 because the UGB amendment and zone change will allow for a more efficient transportation corridor and neighborhood design.

Goal 14, Urbanization. *To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

FINDING: The Hearings Officer adopts the below from the applicants and finds it is sufficient to comply with Goal 14. Moreover, findings below regarding OAR 660-024 further demonstrate that the proposal will ensure an orderly and efficient transition from rural to urban land uses.

During the City's 2016 UGB expansion process, the City demonstrated a need to amend the UGB to accommodate future urban population and job growth within the Bend UGB, through several analyses, including the Urbanization Report and the UGB Scenario Evaluation Report. The City inventoried its buildable lands in the previous UGB for both housing and employment and forecasted future needs for housing and employment based on the 20-year population forecast, determining that a UGB expansion was necessary. This UGB expansion was adopted in 2016. The currently proposed UGB amendment refines the UGB to improve the constructability of the previously planned neighborhoods and roadways, but does

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not change the amount of housing and employment units. As such, the proposal is consistent with Goal 14.

Goals 15 through 19: These goals, which address the Willamette Greenway, estuarine, coastal, beaches and dunes, and ocean resources, are not applicable to the proposal because the subject property is not located in or adjacent to any such areas or resources.

OAR 660-024, Division 24, Urban Growth Boundaries

OAR 660-024-0020, Adoption or Amendment of a UGB

(1) All statewide goals and related administrative rules are applicable when establishing or amending a UGB, except as follows:

a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);

FINDING: These provisions are not applicable to this application since this proposal is not seeking a goal exception.

b) Goals 3 and 4 are not applicable.

FINDING: Goals 3 and 4 are not applicable.

c) Goal 5 and related rules under OAR chapter 660, division 23, apply only in areas added to the UGB, except as required under OAR 660-023-0070 and 660-023-0250;

FINDING: The Hearings Officer incorporates the applicants' response, provided below, and finds it is adequate given the statements that the proposed amendment does not affect the inventory of buildable lands and that the subject lands have no Goal 5 resources. There are no Goal 5 resources identified on the subject lands, but the Oregon Dept. of Fish and Wildlife did identify big game winter range on some of the subject lands.

Goal 5 is addressed below under the section for Statewide Planning Goals. Per OAR 660-024-0020(c), Goal 5 is only addressed for the area proposed to be added to the UGB. This proposed UGB amendment does not affect the inventory of buildable lands, so OAR 660-023-0070 is not applicable. Per OAR 660-023-250, "a local government is not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource." The Bend City Council found in the 2016 UGB expansion decision that the subject properties do not include any of the following Goal 5 resources: riparian corridors, wetlands, Federal Wild and Scenic Rivers, State Scenic Waterways, groundwater resources, approved Oregon Recreation Trails, natural areas, wilderness areas, mineral and aggregate resources, energy sources and cultural areas. Those findings note that the City relied on the inventory included in the Deschutes County Comprehensive Plan and available information from State and Federal sources to make this determination. It is the Applicants' understanding that no new Goal 5 resources have been identified or inventoried on the lands proposed to be added to the UGB.

The Council also found that the big game winter range (BGWR) is included in the West and Shevlin areas, based on a 2009 Oregon Department of Fish and Wildlife (ODFW) map of big game (deer and elk) winter ranges (see Exhibit E [of application materials]). The small amount of land (a net of 4.1 acres) proposed to be added to the UGB in this application is within this BGWR area, however, none of the subject properties are within the Deschutes County Wildlife Combining Zone.

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The Goal 5 findings later in this narrative address the BGWR as related to the areas proposed to be added to the UGB, in compliance with this section.

- d) The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary;*

FINDING: The Hearings Officer finds the subject lands are currently zoned urbanizable. The application materials indicate approximately 0.74 acres are proposed to be taken out of the Bend UGB and zoned changed to the Westside Transect Zone. This land will arguably not generate more vehicle trips because the zone has a prescribed density cap of 187 units, regardless of the size of the zone. Additionally, the application states the approximate 3.67 acres to be taken out of the Bend UGB and zoned changed to UAR-10 is proposed to be added to the Miller Tree Farm subdivision as open space. Likewise, this land will not generate more vehicle trips than the zone currently assigned. It should be noted that there is 8.18 acres being added to the Bend UGB, which the County does not necessarily have jurisdiction over in determining if TPR requirements are applicable. However, the applicants have submitted a concurrent application with the City, which is also before the Hearings Officer. As noted in the concurrent decision issued by the Hearings Officer, the TPR requirements do not need to be met because of the unique situation of this application – land being added/removed from the UGB will keep a similar zoning designation whether the land is coming into or out of the UGB. The Hearings Officer finds the applicants' response, provided below, is adequate for the application before the county.

The proposed UGB amendment includes the addition and removal of property to and from the current UGB limits, in order to refine the western boundary of the West Area Master Plan Area 1 (NWX2 properties, Discovery West) and to refine the alignment of Skyline Ranch Road. All land proposed to be added or removed from the UGB is currently zoned as urbanizable land (UAR-10 in the County or UA in the City). The proposed UGB amendment will not result in new uses or changes in the number of residential or commercial units in the associated master planned areas.

Further, the owners of the subject properties have entered into a development agreement with the City of Bend (Ordinance NS-2316) for the guarantee of water, sewer and transportation infrastructure mitigation for the future urban development for the West and Shevlin UGB Expansion Areas (all the subject properties are included in these areas). The development agreement provides for the timing, construction and funding of infrastructure necessary to support the urban development of these properties. The transportation study that was completed in conjunction with the development agreement was based on the Skyline Ranch Road alignment that is the basis for this UGB amendment. This proposed UGB amendment does not change the requirements of this development agreement and does not increase transportation infrastructure needs.

As such, the proposed UGB amendment will not generate more vehicle trips than the limits of the existing UGB. Therefore, the transportation planning rule, OAR 660-12-0060, is not applicable.

- e) Goal 15 is not applicable to land added to the UGB unless the land is within the Willamette River Greenway Boundary;*
- f) Goals 16 to 18 are not applicable to land added to the UGB unless the land is within a coastal shorelands boundary;*
- g) Goal 19 is not applicable to a UGB amendment.*

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FINDING: The above three provisions are not applicable to the proposal. The subject property is not within the Willamette River Greenway Boundary or within a coastal shorelands boundary, and the proposal is a UGB amendment.

- (2) *The UGB and amendments to the UGB must be shown on the city and county plan and zone maps at a scale sufficient to determine which particular lots or parcels are included in the UGB. Where a UGB does not follow lot or parcel lines, the map must provide sufficient information to determine the precise UGB location.*

FINDING: The Hearings Officer finds the applicants' response below is sufficient to address this criterion, with the exception that legal descriptions will be required prior to the Board of County Commission's consideration of adoption.

The attached UGB refinement map in Exhibit C [application materials] shows the property to be added to and removed from the UGB. Following approval of the UGB amendment and through individual master planning processes, the Applicants will apply to the City and County for appropriate lot line adjustments of the existing legal lots to revise the lots such that the new UGB boundary aligns with property boundaries and/or right of way dedications. Legal descriptions will be provided when the Applicants submit the lot line adjustment applications and/or right-of-way dedications. Additionally, the Applicants will provide GIS mapping files to the City and County to identify the exact location of the proposed UGB line.

If legal descriptions are not provided to the Board to ensure that the required maps can be prepared, the Board will need to consider whether it is feasible to ensure compliance through a condition of approval. In such case, the Hearings Officer encourages the Board to include in the condition of approval a deadline to ensure that County maps can be updated promptly.

OAR 660-024-0040, Land Need

- (1) *The UGB must be based on the appropriate 20-year population forecast for the urban area as determined under Rules in OAR 660, div 32, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision. Local governments in Crook, Deschutes or Jefferson Counties may determine the need for Regional Large-Lot Industrial Land by following the provisions of OAR 660-024-0045 for areas subject to that rule.*

FINDING: The applicants provided the following response to this criterion.

In 2016, the City of Bend completed a legislative UGB amendment process that included an evaluation of all of the above-referenced needs. That legislative UGB expansion was adopted to address the identified needs. This application is for a quasi-judicial, site-specific UGB adjustment request and does not change the amount of housing or employment to be provided or needed within the UGB. The adoption of the 2016 Bend UGB expansion included Comprehensive Plan amendments that set specific housing unit numbers for each of the subject properties that were added to the UGB; those requirements are not proposed to be changed with this application. As such, this proposal does not affect sewer or water capacities or demands, and it proposes to improve the street layout (Skyline Ranch Road). As a quasi-judicial application to refine the UGB line for specific properties to enable the properties to better meet the requirements of the 2016 UGB and Comprehensive Plan amendments, the review of a 20-year population forecast for the urban area is not applicable to this application. (emphasis added)

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The Hearings Officer concurs with the applicants' argument and finds that no further analysis of a 20-year population forecast is necessary. This finding is underscored by the fact that the proposal will not change the amount of housing or employment lands within the UGB.

- (2) *If the UGB analysis or amendment is conducted as part of a periodic review work program, the 20-year planning period must commence on the date initially scheduled for completion of the appropriate work task. If the UGB analysis or amendment is conducted as a post-acknowledgement plan amendment under ORS 197.610 to 197.625, the 20-year planning period must commence either:*
 - (a) *On the date initially scheduled for final adoption of the amendment specified by the local government in the initial notice of the amendment required by OAR 660018-0020; or*
 - (b) *If more recent than the date determined in subsection (a), at the beginning of the 20-year period specified in the coordinated population forecast for the urban area adopted by the city and county pursuant to OAR 660024-0030, unless ORS 197.296 requires a different date for local governments subject to that statute.*

FINDING: This criterion does not apply as the application is for a quasi-judicial UGB amendment and is not part of periodic review.

- (3) *A local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).*

FINDING: The Hearings Officer finds the applicants' response to this criterion, provided below, is sufficient because analysis of land need was addressed in the 2016 Bend UGB and Comprehensive Plan amendments, of which the current application is asking to comply with.

The Applicant requests a quasi-judicial, site specific UGB adjustment, to refine the western border of the West Area Master Plan Area 1 and West Area Master Plan Area 3 through a combination of lands entering and leaving the Bend UGB. The proposed amendment simply refines the UGB line to enable the subject properties to better meet the requirements of the 2016 UGB and Comprehensive Plan amendments. The proposed UGB amendment accommodates a feasible alignment of Skyline Ranch Road (net increase in land added to UGB of approximately 4.1 acres, see Exhibit H) and refines the western border of the West Area Master Plan Area 1. The proposed amendment supports Goals 10, 12 and 14 (housing, transportation and urbanization), but does not address an identified deficiency or specific planning goal need. There is no change in the number of required/allowed housing units, nor a change in the employment lands. As such, this application is not required to address a specific land need, which were addressed in the 2016 UGB and Comprehensive Plan amendments.

- (4) *The determination of 20-year residential land needs for an urban area must be consistent with the adopted 20-year coordinated population forecast for the urban area, and with the requirements for determining housing needs in Goal 10, OAR 660, division 7 or 8, and applicable provisions of ORS 197.295 to 197.314 and 197.475 to 197.490.*

FINDING: This criterion does not apply because the proposed UGB amendment is not for the purpose of meeting residential land needs, it is to accommodate a feasible alignment for the future Skyline Ranch Road and to refine the western border of the West Area Master Planned Area 1. The applicants do not propose to amend any housing unit requirements determined in the 2016 UGB and Comprehensive Plan amendments.

- (5) *Except for a metropolitan service district described in ORS 197.015(14), the determination of 20-year*

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employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.

FINDING: This criterion does not apply because the proposed UGB amendment is not for the purpose of meeting employment land needs. As stated above, it is to accommodate a feasible alignment for the future Skyline Ranch Road and to refine the western border of the West Area Master Planned Area 1. The applicants do not propose to amend any employment land requirements determined in the 2016 UGB and Comprehensive Plan amendments.

...

- (7) *The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Goals 11 and 12, rules in OAR 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of school facility needs must also comply with ORS 195.110 and 197.296 for local governments specified in those statutes.***

FINDING: The applicants' response, provided below, is adequate considering the application is not a legislative amendment to address a 20-year land need.

"This proposed UGB adjustment is a quasi-judicial application for a boundary refinement to provide for a more feasible implementation of recent City Comprehensive Plan amendments, not a legislative application to address 20-year land needs. However, relevant portions of Goal 11 and 12 will be addressed in more detail below. ORS 197.712 and 197.768 require an analysis of general public facilities such as sewer and water to be included in the Comprehensive Plans of cities and counties. Both the City of Bend and the Deschutes County Comprehensive Plans include such analyses. Additionally, the Applicants are all parties in the Westside Infrastructure Group (WIG), which has entered into a development agreement with the City (Ordinance NS-2316, effective November 16, 2018) to guarantee sewer, water, and transportation infrastructure mitigation in a timely, orderly and efficient manner for the future urban development for the West and Shevlin UGB expansion areas, within which the subject properties are included. This development agreement provides for the timing, construction and funding of infrastructure necessary to support the urban development in the above mentioned areas, including the subject properties, meeting the requirements of Goal 11 and 12. This proposed quasi-judicial UGB adjustment does not change the demand for water, sewer or roadways, as the number of required/allowed housing units does not change and no new land uses are introduced."

OAR 660-024-0050, Land Inventory and Response to Deficiency

- (1) *When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute. For employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015.***

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FINDING: The present proposal does not impact or change the City's 2016 legislative process to ensure a 20-year land supply for all needs. Consequently, as demonstrated in the City's 2016 Buildable Land Inventory, this standard is met.

...

- (4) If the inventory demonstrates that the development capacity of land inside the UGB is inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040, the local government must amend the plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the city or by expanding the UGB, or both, and in accordance with ORS 197.296 where applicable. Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB. If the local government determines there is a need to expand the UGB, changes to the UGB must be determined by evaluating alternative boundary locations consistent with Goal 14 and applicable rules at OAR 660-024-0060 or 660-024-0065 and 660-024-0067.**

FINDING: The applicants' response, provided below, is a sufficient response to this criterion. Under the applicants' proposal, there are no changes to the identified land need within the City of Bend.

"Prior to the 2016 UGB expansion, the City identified that land inside the UGB was insufficient to accommodate estimated 20-year needs and expanded its UGB to correct this insufficiency. The City's UGB expansion process involved an analysis of alternative boundary locations to comply with ORS 197.296. This quasi-judicial site-specific application seeks to refine the UGB along the subject properties in the West Area of Bend, to facilitate a feasible alignment for Skyline Ranch Road, a TSP-designated major collector, and to refine the boundary of the West Area Master Plan Area 1 for improved implementation of the Comprehensive Plan's required transect and density requirements. This proposal is not intended to specifically respond to identified land need deficiencies. The proposal does not change the number of housing units or employment lands, nor does it impact sewer, water or transportation demands."

- (5) In evaluating an amendment of a UGB submitted under ORS 197.626, the director or the commission may determine that a difference between the estimated 20-year needs determined under OAR 660-024-0040 and the amount of land and development capacity added to the UGB by the submitted amendment is unlikely to significantly affect land supply or resource land protection, and as a result, may determine that the proposed amendment complies with section (4) of this rule.**

FINDING: This section does not apply to the current proposal because the UGB adjustment is not submitted under ORS 197.626, nor is it subject to ORS 197.626.

- (6) When land is added to the UGB, the local government must assign appropriate urban plan designations to the added land, consistent with the need determination and the requirements of section (7) of this rule, if applicable. The local government must also apply appropriate zoning to the added land consistent with the plan designation or may maintain the land as urbanizable land until the land is rezoned for the planned urban uses, either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development. The requirements of ORS 197.296 regarding planning and zoning also apply when local governments specified in that statute add land to the UGB.**

FINDING: The applicants' response, provided below, is a sufficient response to this criterion. The applicants have submitted a zone change application concurrently with the UGB amendment to assign an appropriate plan designation to the subject lands.

"A net of approximately 4.1 acres will be added to the UGB through this proposed UGB adjustment (approximately 4.3 acres are proposed to be removed from the UGB, while approximately 8.4 acres are

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proposed to be added to the UGB, see Exhibit H). These lands are currently zoned urban area reserve (UAR-10) in Deschutes County. The lands being added are not to respond to a specific need determination. Regardless, upon entering the UGB, the City will assign an urban plan designation to the properties, equal to those of the land currently adjacent to the land being added to the UGB (designation = Low Density Residential, RL). Both of the subject areas inside the UGB are required to be master planned to meet the required densities and uses defined within the Bend Comprehensive Plan. Upon approval of the master plans, the subject properties are expected to be annexed into the City, at which time the properties will be rezoned to match the Comprehensive Plan and/or approved master plan designations.

This application is a quasi-judicial site-specific UGB adjustment, not a legislative periodic review; as such, ORS 197.296 does not apply to this application.”

OAR 660-024-0060, Metro Boundary Location Alternative Analysis

- (1) *When considering a Metro UGB amendment, Metro must determine which land to add by evaluating alternative urban growth boundary locations. For Metro, this determination must be consistent with the priority of land specified in ORS 197.298 and the boundary location factors of Goal 14, as follows:*
 - (a) *Beginning with the highest priority of land available, Metro must determine which land in that priority is suitable to accommodate the need deficiency determined under OAR 660-024-0050.*
 - (b) *If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the need deficiency, Metro must apply the location factors of Goal 14 to choose which land in that priority to include in the Metro UGB.*

FINDING: The subject property is not under Metro's authority. Furthermore, the proposed UGB adjustment is a quasi-judicial site-specific refinement and not a legislative amendment to address a need deficiency. Due to the nature of the proposed quasi-judicial refinement, a boundary location alternatives analysis considering "priority lands" is not applicable.

- (2) *Notwithstanding OAR 660-024-0050(4) and subsection (1)(c) of this rule, except during a legislative review of the Metro UGB, Metro may approve an application under ORS 197.610 to 197.625 for a Metro UGB amendment proposing to add an amount of land less than necessary to satisfy the land need deficiency determined under OAR 660-024-0050(4), provided the amendment complies with all other applicable requirements.*
- (3) *The boundary location factors of Goal 14 are not independent criteria. When the factors are applied to compare alternative boundary locations and to determine the Metro UGB location, Metro must show that all the factors were considered and balanced.*
- (4) *In determining alternative land for evaluation under ORS 197.298, "land adjacent to the UGB" is not limited to those lots or parcels that abut the UGB, but also includes land in the vicinity of the UGB that has a reasonable potential to satisfy the identified need deficiency.*
- (5) *If Metro has specified characteristics such as parcel size, topography, or proximity that are necessary for land to be suitable for an identified need, Metro may limit its consideration to land that has the specified characteristics when it conducts the boundary location alternatives analysis and applies ORS 197.298.*

FINDING: The subject property is not under Metro's authority. Nonetheless, the proposed UGB adjustment is a quasi-judicial site-specific refinement and is not a legislative amendment to address a land need deficiency. Therefore, these sections do not apply.

- (6) *The adopted findings for a Metro UGB adoption or amendment must describe or map all of the alternative areas evaluated in the boundary location alternatives analysis. If the analysis involves more than one parcel or area within a particular priority category in ORS 197.298 for which circumstances are the same, these parcels or areas may be considered and evaluated as a single group.*

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FINDING: The subject property is not under Metro's authority. This application is a refinement of the UGB line, to provide a feasible alignment due to topography of the future Skyline Ranch Road and to refine the border of West Area Master Plan Area 1 to accommodate the mandated development patterns and housing densities. Due to the nature of this adjustment, alternative locations are neither feasible nor applicable.

- (7) *For purposes of Goal 14 Boundary Location Factor 2, "public facilities and services" means water, sanitary sewer, storm water management, and transportation facilities.*
- (8) *The Goal 14 boundary location determination requires evaluation and comparison of the relative costs, advantages and disadvantages of alternative Metro UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. This evaluation and comparison must be conducted in coordination with service providers, including the Oregon Department of Transportation (ODOT) with regard to impacts on the state transportation system. "Coordination" includes timely notice to service providers and the consideration of evaluation methodologies recommended by service providers. The evaluation and comparison must include:*
 - (a) *The impacts to existing water, sanitary sewer, storm water and transportation facilities that serve nearby areas already inside the Metro UGB;*
 - (b) *The capacity of existing public facilities and services to serve areas already inside the UGB as well as areas proposed for addition to the Metro UGB; and*
 - (c) *The need for new transportation facilities, such as highways and other roadways, interchanges, arterials and collectors, additional travel lanes, other major improvements on existing roadways and, for urban areas of 25,000 or more, the provision of public transit service.*

FINDING: The application materials indicate the property owners have entered into a development agreement with the City for development of water, sewer and transportation infrastructure necessary to support the urban development of the West and Shevlin Areas, within which the subject properties are included. According to the applicant, the proposed UGB adjustment does not impact the development agreement or the water, sewer, or transportation infrastructure needs or capacity. This proposal facilitates a feasible alignment for Skyline Ranch Road, as well as revisions to the western border of West Area Master Plan Area 1 to facilitate implementation of the transect concept and mandated housing densities for the subject properties.

This application is not a legislative amendment to address a need deficiency. Due to the nature of the proposed quasi-judicial refinement, a boundary location alternatives analysis is not applicable.

OAR 660-024-0065, Establishment of Study Area to Evaluate Land for Inclusion in the UGB
OAR 660-024-0067, Establishment of Study Area to Evaluate Land for Inclusion in the UGB; Priorities

FINDING: The above provisions of OAR 660, Division 24, are not applicable to this proposal; they apply to UGB amendments for the purpose of meeting a land need identified under the process defined in OAR 660-024-0040, Land Need. As previously noted, this application is not a legislative amendment to address a need deficiency. Due to the nature of the proposed quasi-judicial refinement, an evaluation of land for inclusion in the UGB is not applicable.

OAR 660-024-0070, UGB ADJUSTMENTS

- (1) *A local government may adjust the UGB at any time to better achieve the purposes of Goal 14 and this division. Such adjustment may occur by adding or removing land from the UGB, or by exchanging land inside the UGB for land outside the UGB. The requirements of section (2) of this rule apply when removing land from the UGB. The requirements of Goal 14 and this division [and ORS 197.298] apply when land is added to the UGB, including land added in exchange for land removed. The requirements of ORS 197.296 may also apply when land is added to a UGB, as specified in that statute. If a local government exchanges land inside the UGB for land outside the UGB, the applicable local government must adopt appropriate rural zoning designations for the land removed from the UGB prior to or at the*

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time of adoption of the UGB amendment and must apply applicable location and priority provisions of OAR 660-024-0060 through 660-020-0067.

FINDING: The applicants provided the following response to this criterion.

In December 2016, the Bend UGB expansion was acknowledged by the Oregon DLCD, adding 2,380 acres of land to address identified housing and employment needs. Included in that expansion were two of the subject properties (NWX2's West Area Master Plan Area 1, Rio Lobo's West Area Master Plan Area 3). This proposed UGB adjustment is a quasi-judicial application, not a legislative amendment lead by a local government. Nonetheless, the purpose of the proposed UGB adjustment is to better achieve the purposes of Goal 14 for the westside of Bend and proposes to add a net of approximately 4.1 acres to the UGB, including some exchanges of land inside and outside the UGB. The proposed UGB adjustment would allow the refinement of the alignment of Skyline Ranch Road, a [City of Bend] TSP-designated north-south major collector. The current TSP alignment for this roadway is topographically infeasible, creating an inefficient use of land. The UGB refinement also includes the western border of the NWX2 properties, to more efficiently implement the transect concepts while meeting the density requirements and required number of housing units outlined in the Bend Comprehensive Plan.

Goal 14 and ORS 197.298 are addressed below. In summary, the proposed UGB amendment refines the UGB to improve the constructability of the previously planned neighborhoods and roadways, but does not change the amount of allowed/required housing units and employment lands that will be achieved through the master planning process. This refinement ensures more efficient use of land while achieving the neighborhood requirements of the City's Comprehensive Plan.

Approximately 4.3 acres are proposed to be removed from the UGB and designated UAR-10, to match the adjacent rural lands. A concurrent zone change application is being submitted to the County for those lands, requesting the adoption of County zoning to match the zoning of the adjacent County lands.

This criterion is met.

(2) A local government may remove land from a UGB following the procedures and requirements of ORS 197.764. Alternatively, a local government may remove land from the UGB following the procedures and requirements of 197.610 to 197.650, provided it determines:

Finding: Staff asked the Hearings Officer to consider whether this rule applies to this case. Specifically, staff noted:

Although land is proposed to be removed from the UGB, the proposed adjustment will actually increase the lands within the UGB. Approximately 4.02 acres are proposed to be removed from the Bend UGB and approximately 8.18 acres are proposed to be added to the UGB, with a net increase of 4.16 acres into the UGB. The applicants contend the proposed UGB adjustment will not change the allowed/required number of buildable housing units, nor does it increase impacts on the public facilities. While the applicant suggests this section is not applicable, staff asks the Hearings Officer to make specific findings as to whether it is or not.

The Hearings Officer believes that, notwithstanding the net gain of 4.16 acres to the UGB, the fact that 4.02 acres will be removed, triggers the application of this criterion. To meet this criterion, there are two optional tracts. The Hearings Officer finds the first one (compliance with ORS 197.764) is met as described below.

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ORS 197.764

(1) A local government may approve an application to remove a lot or parcel from within an urban growth boundary if:

- (a) The application is submitted by the owner of the lot or parcel;**

FINDING: The applications are submitted by the owners of the subject properties.

- (b) (A) The lot or parcel is adjacent to the edge of the urban growth boundary; or
(B) The lot or parcel is adjacent to another lot or parcel that is removed under this section;**

FINDING: The portion of the subject properties that will be removed from the UGB are adjacent to the edge of the UGB. Again, the purpose of this application is to adjust the UGB to accommodate the refinement of the Skyline Ranch Road and the West Area Master Plan Area.

- (c) The lot or parcel is assessed under ORS 308A.050 (Legislative intent) to 308A.128 (Certain district assessments inapplicable to exclusive farm use zone farmland) for its value for farm use;**

FINDING: This statute applies to tax assessments for farm land, which is not applicable in this case.

- (d) The lot or parcel is not within the boundaries of a city; and**

FINDING: The subject properties are not within the boundaries of the City.

- (e) The lot or parcel is not included in an area identified for urban services under ORS 197.754 (Land identified for urban services).**

(2) A local government, in deciding whether to approve an application under subsection (1) of this section, shall consider:

- (a) The projected costs and other consequences of extending urban services to the affected lot or parcel;**

FINDING: As the applicants have demonstrated, it will be more efficient to extend urban services to the refined UGB because of the topography. The removal (and ultimately net gain) of land from the UGB will allow for the feasible implementation of the City's 2016 UGB Amendment.

- (b) The potential value in the investment of providing urban services to the affected lot or parcel;**

FINDING: Given the applicant's description of the area to be removed from the UGB, it will be left as open space. And given the topography, development of the removed area seems unlikely. The value of providing services to the area to be removed is nominal.

- (c) Any requirement for expanding the urban growth boundary in other areas to compensate for any loss in buildable lands; and**

FINDING: As noted throughout this decision, there will be no loss of buildable lands as the result of the removal approximately 4.02 acres from the UGB. Instead, there will be a net gain of lands to the UGB and no impact on the buildable lands. Therefore, there is no need to require an expansion of the UGB in other areas.

- (d) The projected costs and other consequences of providing urban services to other areas brought in under an expanded urban growth boundary.**

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FINDING: As noted throughout this decision, the cost for providing urban services to the land being removed from the UGB will be greater. The realigned Skyline Ranch Road will be made feasible through the TSP amendment and will cost less to construct.

- (3) (a) **Land that is removed from within an urban growth boundary pursuant to an application approved under this section shall be removed from any inventory of buildable lands maintained by the local government.**

FINIDNG: The City will remove the 4.02 acres, as identified by the applicants as the land to be removed from the UGB, from its buildable lands inventory.

- (b) **A local government that approves an application under this section shall either expand the urban growth boundary to compensate for any resulting reduction in available buildable lands or increase the development capacity of the remaining supply of buildable lands.**

FINDING: As noted throughout this decision, there will be a net gain of 4.16 acres to the UGB as the result of this application and there will not be any resulting reduction in available buildable lands. Therefore, this requirement is met.

- (3) Notwithstanding sections (1) and (2) of this rule, a local government considering an exchange of land may rely on the land needs analysis that provided a basis for its current acknowledged plan, rather than adopting a new need analysis, provided:**

- (a) The amount of buildable land added to the UGB to meet:**

- (A) A specific type of residential need is substantially equivalent to the amount of buildable residential land removed, or**
(B) The amount of employment land added to the UGB to meet an employment need is substantially equivalent to the amount of employment land removed, and

- (b) The local government must apply comprehensive plan designations and, if applicable, urban zoning to the land added to the UGB, such that the land added is designated:**

- (A) For the same residential uses and at the same housing density as the land removed from the UGB, or**
(B) For the same employment uses as allowed on the land removed from the UGB, or
(C) If the land exchange is intended to provide for a particular industrial use that requires specific site characteristics, only land zoned for commercial or industrial use may be removed, and the land added must be zoned for the particular industrial use and meet other applicable requirements of ORS 197A.320(6).

FINDING: The proposed UGB adjustment and associated Plan designation amendment do not affect the amount of buildable residential land in terms of housing units, as the required number of housing units for the subject properties are established in the Comprehensive Plan and are not being amended. Additionally, the applicants' proposal does not change the amount of employment land to be included in the subject property master plans, nor is the intent to provide for a particular industrial use.

The applicant suggests the land needs analysis that provided a basis for the current acknowledged plan is still relevant and is not affected by this proposal. According to the applicant, their proposal is not to address a specific land need, but rather to improve the efficiency and feasibility of the implementation of the Bend Comprehensive Plan requirements for the subject properties.⁴

⁴ In accordance with 660-24-0070 (3)(b), the Applicants have submitted a concurrent application to the City of Bend for the amendment of the City's UGB and amendment of the comprehensive plan designations for the land entering the UGB. The Applicants have also submitted to the County an application for a zone change for the land being removed from the UGB.

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The Hearings Officer agrees with the applicants; the land needs analysis performed during the 2016 Bend UGB and Comprehensive Plan Amendments is satisfactory for the present applications. Furthermore, the Hearings Officer finds the applicants' proposal to apply the UAR/UA comprehensive plan designations is appropriate because the change in designation allows for the equivalent residential uses and housing density.

IV. CONCLUSION

The Hearings Officer recommends that the proposed zone change and plan amendment be approved subject to the following condition of approval:

CONDITION OF APPROVAL: *The applicant shall comply with DCC 19.116.030 by recording a signed copy of this approved amendment, including the legal description of the lands rezoned hereunder, with the Deschutes County Clerk. Such document shall be in a form reasonably acceptable to the Planning Director.*

The applicants submitted concurrent applications with the City of Bend (file nos. PZ-18-1006 and PZ-18-1007). The Hearings Officer reviewed the applications in front of the City concurrently with the applications in front of the County. The City applications inform the County applications and vice-versa. For the record, the Hearings Officer also recommended that the City's related applications be approved.

DESCHUTES COUNTY HEARINGS OFFICER:

Dated this 7th day of March, 2019.



Will Van Vactor, Hearings Officer